



Australia

Country Reports on Human Rights Practices - 2007

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Australia is a constitutional democracy with a federal parliamentary government. Its population was approximately 21.1 million. Citizens periodically choose their representatives in free and fair multiparty elections. In federal parliamentary elections held on November 24, the Australian Labor Party (ALP) defeated the governing Liberal Party and National Party coalition of Prime Minister John Howard, and on December 3, ALP leader Kevin Rudd replaced Howard as prime minister. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. Problems were reported in a few areas, including domestic violence against women and children, particularly in Aboriginal communities, and societal discrimination against Aboriginal people. Domestic labor unions and the International Trade Union Confederation continued to criticize the 1996 Federal Workplace Relations Act and the 2005 WorkChoices law (which amended the act), particularly the laws' curbs on trade unions, restrictions on strikes, and emphasis on individual employment contracts; support for repeal of portions of WorkChoices was a major plank in the ALP's election campaign platform.

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 June 20, a Queensland jury acquitted a police officer of manslaughter and assault in the 2004 case of an indigenous man who died in police custody after his arrest for public drunkenness on Queensland's Palm Island. In September 2006 the Queensland State coroner concluded that the man was beaten while in custody and died as a result, but the state prosecutor initially declined to prosecute the officer involved. In January a retired judge appointed by the Queensland State attorney general to review the prosecutor's decision found that there was sufficient evidence to charge the officer with manslaughter.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and the government generally respected these provisions in practice. However, there were occasional reports that police and prison officials mistreated suspects in custody. Some indigenous groups charged that police harassment of indigenous people was pervasive and that racial discrimination by some police and prison custodians persisted.

Prison and Detention Center Conditions

Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

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

Civilian authorities maintained effective control over the armed forces and the police, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest and Detention

Police officers may seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear; however, they also may arrest a person without a warrant if there are reasonable grounds to believe the person committed an offense. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest, and arrested persons must be brought before a magistrate for a bail hearing at the next sitting of the court. However, legislation passed in 2005 permits the police to hold individuals in preventive detention for up to 24 hours without charge if a senior police official finds it is "reasonably necessary to prevent a terrorist act or preserve evidence of such an act." Individuals may be detained for an additional 24 hours under an extension of the initial court order. Bail generally is available to persons facing criminal charges unless the person is considered to be a flight risk or is charged with an offense carrying a penalty of 12 months' imprisonment or more. Attorneys and families were granted prompt access to detainees. Government-provided attorneys are available to provide legal advice to detainees who cannot afford counsel.

The antiterrorism law permits a judge to authorize "control orders" on individuals suspected of involvement with terrorism-related activities. These orders may include a range of measures, such as monitoring of suspects and house arrest, and may be in effect for up to a year without the filing of criminal charges. If a control order is still warranted after one year, a new order must be sought from a court. Both the preventive detention and control order provisions of the antiterrorism legislation expire in 2015. The law mandates a review of these provisions after five years (in 2010). On August 2, the High Court ruled that control orders were constitutional.

On July 2, the Australian Federal Police (AFP) detained Mohamed Haneef, an Indian doctor working at a Queensland hospital on a temporary visa, under the Crimes Act for alleged links to a foiled terrorist attack in Britain. Although the act states that the maximum investigation period a person can be held without charge is 24 hours (unless extended by court order), amendments enacted in 2004 introduced a concept called "dead time," in which the allowable time for questioning of a suspect can be spread across an unspecified number of days. This enabled police to detain Haneef for 12 days before he was charged on July 14 with recklessly providing support for a

terrorist group and granted bail on July 16. That day the government revoked his visa on character grounds, and he was placed in immigration detention. On July 27, he was released after the Director of Public Prosecutions dropped the charges following its examination of evidence in the case. The next day Haneef returned to India. On August 21, the Federal Court of Australia granted his appeal against the cancellation of his visa. On December 21, the full bench of the Federal Court rejected the government's appeal of the August 21 decision, and the new immigration minister stated he would accept that decision. Human rights groups, the media, and the legal profession criticized the laws under which Haneef was held and police handling of the case. The Law Council, the country's highest legal body, described the "dead time" provision as introducing "indefinite detention by stealth."

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

There are federal, state, and territorial courts, which handle both civil and criminal matters. The highest federal court is the High Court, which exercises general appellate jurisdiction and advises on constitutional issues.

Trial Procedures

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

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. There is also an administrative process at the state and federal levels to seek redress for alleged wrongs by government departments. Generally, administrative tribunals can only review a government decision if the decision is in a category specified under a law, regulation, or other legislative instrument as subject to a tribunal's review.

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

Although the constitution does not explicitly provide for freedom of speech or of the press, the High Court has held that a right to freedom of expression is implied in the constitution, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

On June 25, Victoria State's County Court convicted Melbourne *Herald Sun* reporters Gerard McManus and Michael Harvey of contempt of court for refusing to name their sources for an article they published in 2004 and fined them \$6,300 (A\$7,000) each. The County Court chief judge filed the charges in 2005 after the reporters refused to give evidence or name their sources during court proceedings against a government employee charged with unauthorized release of information to the reporters. After the verdict the federal attorney general urged all states and territories to pass legislation to protect confidential communications between journalists and their sources. As of year's end, such legal protection existed only in federal, New South Wales (NSW), and Australian Capital Territory courts.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available and widely used by citizens.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

While the rights of peaceful assembly and association are not codified in law, 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

According to the 2006 census, the country's Jewish community numbered 88,832 persons. In the 12-month period ending September 30, an annual report on anti-Semitism in Australia written by the director of international and community affairs of the Australia/Israel and Jewish Affairs Council, a nongovernmental organization (NGO), recorded 638 anti-Semitic incidents. This was twice the previous annual average since 1989 and 8 percent higher than 2002, the previous record year. These incidents included physical assault, property damage, harassment, and offensive written and electronic media. Incidents of assault, arson attacks, face-to-face harassment, and vandalism, broadly defined as "attacks," were recorded at the highest rate on record, at nearly three times the previous annual average.

On August 20 in Melbourne, two men shouting anti-Semitic slurs assaulted a 17-year-old Jewish youth with baseball bats; the case remained under investigation at year's end. On September 12, a large swastika and "KKK" were carved into the green of a historic Jewish golf club at the Cranbourne Golf Club in Victoria; the club reported that vandals caused approximately \$4,050 (A\$4,500) in damage during the year, including another incident of anti-Semitic vandalism on a club green. Police investigated the case but had not made any arrests by year's end.

At year's end police had identified no suspects in their investigation into a September 2006 incident in which a single bullet was fired from a stationary car into the window of a mosque in Mirrabooka, a suburb of Perth.

In February a man was convicted of harassment and fined \$1,800 (A\$2,000) plus court costs for making threatening telephone calls to two Muslim schools in Perth in October 2006.

In March police charged three members of Melbourne's Ocean Grove Football Club in the October 2006 assault of a Jewish man by club members. In subsequent trials one defendant was convicted and fined \$900 (A\$1,000), and another was convicted and fined \$675 (A\$750). The third man was fined \$900 (A\$1,000), but no conviction was recorded; the court was told he acted on "the spur of the moment" and had no prior convictions.

In December 2006 the Victoria State Supreme Court ruled in favor of an appeal by two Christian pastors of the Victoria civil and administrative tribunal's 2004 ruling that they publish apologies, via newspaper advertisements, for comments that the tribunal held had vilified Muslims. The court ordered the case back to the tribunal to be heard by a different judge. On May 31, the Islamic Council of Victoria and the pastors' organization, Catch the Fire Ministries, agreed to mediation in the matter. The council filed the complaint under Victoria's Racial and Religious Tolerance Act in 2003.

The government promoted acceptance of diversity through a number of programs, including an antiracism education campaign and ongoing public awareness programs conducted by Human Rights and Equal Opportunity Commission (HREOC). In his annual report on anti-Semitism in Australia, the director of international and community affairs of the Australia/Israel and Jewish Affairs Council praised these programs in the context of combating anti-Semitism and racism. The government's "Living in Harmony" program funded community projects that promoted tolerance. In January the government announced commitment of \$7.2 million (A\$8 million) to fund a National Centre of Excellence in Islamic Studies to be based at three universities. The government also funded a variety of interfaith forums, including the International Dialogue on Interfaith Cooperation.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law does not address forced exile, but the government did not use it in practice.

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. The government granted refugee status and asylum and facilitated local integration. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

In August the immigration minister announced that the country's Offshore Humanitarian Program for 2007-8 would reduce the African portion of the program's total intake from 50 percent to 30 percent and increase the intake from the Middle East and Asia to 35 per cent each. Among reasons the minister cited for the changes were improved conditions in Africa, a commitment to resettle Burmese refugees, and problems among some groups, particularly Sudanese refugees, in adjusting quickly to the Australian way of life. With regard to the latter, a UNHCR spokeswoman commented that "[e]levating so-called integration factors as a consideration in determining refugee quotas would seem to be at odds with the purpose of a refugee resettlement program."

Noncitizens arriving at a national border without prior entry authorization are detained, and unless subsequently granted permission to remain in the country, must be removed as soon as reasonably possible. Individuals may be released pending full adjudication of their asylum claim if they meet certain criteria such as old age, ill health, or experience of torture or other trauma. Detainees were either released upon receiving asylum and an appropriate visa or removed once it was determined that they did not qualify for protection. The Department of Immigration and Citizenship (DIAC) provided immigration advice and assistance to persons making an initial asylum claim or application for lawful residence. DIAC also has a statutory obligation to facilitate access to legal representation for persons in immigration detention.

During the year some asylum seekers intercepted at sea continued to be detained in offshore processing centers in Nauru, including 82 Tamils intercepted in February. The Tamils were found to be refugees (80 by DIAC and two by the UNHCR), and the government indicated it would seek their resettlement in a third country. Subsequently the new government, which announced it would close the Nauru facility, stated it would resettle the Tamils in Australia. In December seven Burmese asylum seekers held at the Nauru facility since September 2006 were granted refugee status and moved to Australia for resettlement. In May the human rights and equal opportunity commissioner requested access to the Nauru facility as part of his annual visits to immigration detention centers, but the then immigration minister denied the request on the basis that the commissioner had no jurisdiction over offshore processing facilities.

At year's end there were approximately 600 persons in immigration detention. Of these, approximately 300 had been detained for less than three months, and approximately 40, including all families with children, were placed in "residence determination arrangements" in the community rather than in detention centers. Approximately 180 of those detained were illegal foreign fishers, primarily from Indonesia; illegal fishers generally remained in detention for only a short period pending their removal from the country.

Although delays in processing asylum applications were not a significant problem during the year, a small number of asylum seekers remained in detention, some for years, despite having exhausted the appeal process. They could not be returned to their home country because they lacked travel documents or could not obtain necessary transit visas. The ombudsman reviews the cases of persons in detention more than two years. For the 12 months ending June 30, DIAC provided reports to the ombudsman on 367 persons who had been detained for two years or more. As of June 30, 275 were no longer in detention; 16 of these were granted Removal Pending Bridging Visas (RPBVs). The law allows the immigration minister to grant an RPBV to a person in immigration detention whose removal from the country is not practical at that time. Holders of RPBVs may work and access government services, including public health care and education.

The country's immigration laws and detention policy continued to be criticized by some human rights and refugee advocacy groups, which charged that the sometimes-lengthy detentions violated asylum seekers' human rights.

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 based on universal suffrage and mandatory voting.

On August 30, the High Court ruled that a 2006 federal law denying voting rights to all prisoners was unconstitutional. However, the court upheld the previous law, which denied the vote to prisoners serving sentences of three years or more. In 2006 Parliament changed the law so that voter registration is closed the day the official notice is issued for an election (typically the day the prime minister announces the election). This was criticized by nongovernment parties as making it more difficult for young

people and other potential first-time voters to vote.

Elections and Political Participation

In federal elections held on November 24, the ALP won a majority of seats in the lower house of Parliament, and on December 3, ALP leader Kevin Rudd replaced John Howard as prime minister. The ALP also won state elections held in NSW during the year.

There are no legal impediments to public office for women and indigenous people. As of December, there were 67 women in the 226-seat federal Parliament (40 in the House of Representatives and 27 in the Senate). There were four female ministers in the 20-member federal cabinet, three women among the 10 ministers outside the cabinet, and three women among the 12 parliamentary secretaries. There was one woman among the eight premiers and chief ministers of the six states and two territories. For the first time, a woman was sworn in as deputy prime minister. On September 3, a woman was sworn in as a High Court judge, bringing the number of women on that bench to two for the first time.

Aboriginals generally were underrepresented among the political leadership. There were no Aboriginals in the federal Parliament. There was one Aboriginal in the Tasmanian state parliament, one in the NSW state parliament, two in the Western Australia (WA) state parliament, and four in the Northern Territory (NT) legislative assembly. In November an Aboriginal woman became the highest ranking indigenous member of government in the country's history when she was appointed NT deputy chief minister. There was one Asian-Australian in the federal cabinet.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption.

On June 1, police raided Liberal Party offices in Queensland in connection with an investigation into alleged party misuse of federal election printing allowances by three Liberal Party members of the federal Parliament. The Department of Public Prosecutions declined to press charges against any of the three Members of Parliament. In October a WA Corruption and Crime Commission reported that three public officials and three local government councilors in that state had engaged in misconduct by concealing their links to lobbyists supporting a land development project.

Queensland, WA, and NSW have independent anticorruption bodies that can investigate alleged government corruption, and every jurisdiction has an ombudsman who can investigate and make recommendations in response to complaints about government decisions. Public officials are subject to financial disclosure laws. In March a Queensland Liberal Party federal senator--and government minister--resigned after failing to disclose share purchases as required by Senate rules. Some of these shares were directly related to his ministerial portfolio.

Federal, state, and territorial governments have freedom of information (FOI) laws that provide the public with access to government information, generally subject to both an application and a processing fee. Government information may be exempted from disclosure to protect essential public interests or the private or business affairs of others. An applicant, including foreign media, may appeal a government decision to deny a request for information to the quasi-legal Administrative Appeals Tribunal (AAT), an executive body that reviews administrative decisions by government entities. An adverse AAT decision may be appealed to the Federal Court of Australia.

The Australian Press Association and others have criticized the FOI application process as unduly lengthy and costly, particularly with regard to requests for non-personal information. On May 10, major media organizations launched a campaign entitled "Australia's Right to Know," calling for an "audit" of press freedom in the country. Partly in response to this, in September the government directed the Australian Law Reform Commission to examine FOI laws. The commission's review was ongoing at year's end.

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 cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

Federal laws prohibit discrimination based on sex, disability, race, color, descent or national or ethnic origin, marital status, or age. An independent judiciary and a network of federal, state, and territorial equal opportunity offices effectively enforced the law. HREOC investigates complaints of discrimination or breaches of human rights under the federal laws that implement the country's human rights treaty obligations.

Women

The law criminalizes rape, including spousal rape, and the government enforced the law effectively when cases were reported to the authorities. Penalties for rape are prescribed in the laws of the individual states and territories.

In December *The Australian* newspaper publicized the 2006 gang rape of a developmentally disabled 10-year-old indigenous girl in her community of Aurukun in the Cape York area of Queensland; none of nine defendants who pleaded guilty in the case received prison sentences. In October an Aurukun court sentenced six juveniles to one year's probation; in November the Cairns District Court gave the remaining three defendants, including a 26-year-old man with prior sex offense convictions, six-month suspended sentences. Although a minor cannot give "informed consent" under the law, the judge in Cairns justified the suspended sentences on the grounds that there was no evidence of force in the case and the prosecutor had not requested prison sentences. The Queensland premier subsequently ordered a review of all sentences handed down in sexual assault cases in Cape York over the past two years. The Queensland attorney general lodged appeals against the sentences given the nine defendants and also applied for an extension of the appeal period.

The law prohibits violence against women, including domestic abuse, and the government enforced the law. Nonetheless, violence against women remained a problem, particularly in Aboriginal communities.

Domestic violence was believed to be widely underreported in indigenous communities. In a November 2006 report entitled *Family Violence among Aboriginal and Torres Strait Islander Peoples*, which analyzed information from a number of existing studies and other data bases, the Australian Institute of Health and Welfare noted that reluctance among indigenous women to report domestic violence "may be a result of fear both of the police and the perpetrator" and that "past personal or cultural experiences...with the criminal justice system may also result in under-reporting." The report also cited the isolation of many indigenous communities as a factor. In April there were press reports on widespread domestic violence and child abuse in Aboriginal communities in WA (see section 5, Children). The federal Department of Family and Community Services and the state departments of community services had programs to both combat domestic violence and support its victims, and the federal, state, and territorial governments funded numerous women's shelters. The federal government also funded an advertising and information campaign against violence against women as part of its "Women's Safety Agenda."

Prostitution is legal or decriminalized in several states and territories, and the governments of Victoria, Queensland, NSW, and the Australian Capital Territory license brothels operating within their borders. However, some brothels operated illegally. In some locations state-funded sexual health services employees visited brothels to educate workers about sexual health matters and to prevent worker mistreatment. Local governments or prostitution licensing authorities inspected brothels to ensure

compliance with planning laws and licensing requirements, including health and safety regulations. However, government officials faced difficulties enforcing health and safety standards in illegal brothels. Trafficking in persons, primarily women from Asia, for prostitution was a limited problem.

The Sex Discrimination Act prohibits sexual harassment. Circumstances that give rise to complaints of such harassment can also give rise to criminal proceedings or disciplinary action against the subject of the complaint and to compensation claims by the complainant. The independent federal sex discrimination commissioner, which is part of HREOC, undertakes research, policy, and educational work designed to eliminate discrimination between men and women. There also is a federal Office for Women. In August the federal minister for women published a report, *Women in Australia 2007*, which provided an overview of progress made over the past 10 years in raising the status of women across a wide range of areas.

HREOC received 472 complaints under the Sex Discrimination Act from July 2006 through June 2007. Of these, 17 percent alleged discrimination based on pregnancy, and 19 percent alleged sexual harassment. The commission resolved 452 of the complaints, 46 percent by conciliation.

Women have equal status under the law, and the law provides for pay equity. In February the Australian Bureau of Statistics (ABS) estimated that women's full-time total average weekly earnings were 83.6 percent of those of men. The Equal Opportunity for Women in the Workplace Act requires organizations with 100 or more employees to establish a workplace program to remove the barriers to women entering and advancing in their organization.

There were highly organized and effective private and public women's rights organizations at the federal, state, and local levels.

Children

The government demonstrated its strong commitment to children's rights and welfare through its publicly funded educational and medical care systems. While the structure of education varied among states and territories, all children between six and 15 years of age are entitled to nine to 10 years of compulsory and free education. An ABS survey issued in February found that the full-time school participation rate for 15-year-olds as of August 2006 was 94.5 percent, with most children completing grade 12. The student retention rate from grades seven and eight to grade 12 was 80.6 percent for girls and 69 percent for boys.

The government provided universal health insurance coverage to all citizens and lawful residents from birth on a copayment basis. Boys and girls had equal access to government-provided medical care.

State and territorial child protection agencies investigate and institute prosecutions of persons for child neglect or abuse. All states and territories have laws or guidelines that require members of certain designated professions to report suspected child abuse or neglect. The federal government's role in child abuse prevention is limited to funding research and education campaigns, developing an action plan against the commercial exploitation of children, and funding community-based parenting programs. According to the Australian Institute of Health and Welfare, there were 55,921 substantiated cases of child abuse and neglect from July 2005 to June 2006, the latest period for which national statistics were available. These included physical abuse (22 percent of cases), sexual abuse (10 percent), emotional abuse (40 percent), and neglect (27 percent).

The government has enacted tough criminal laws aimed at restricting the trade in, and possession of, child pornography; the law allows suspected pedophiles to be tried in the country regardless of where the crime was committed. The Child Sex Tourism Act prohibits child sex tourism and related offenses for the country's residents and citizens overseas and provides for a maximum sentence of 17 years' imprisonment upon conviction. From January 1, 2004 through October 23, 2007, the AFP conducted 153 investigations and assessments under the act. As of June 30, there were 28 prosecutions, with 18 convictions and two cases still pending before the courts. During the year the government continued its awareness campaign to deter child sex tourism through the distribution of materials to citizens and residents traveling overseas. Child protection NGOs raised community awareness of child trafficking. There were no reports of children trafficked into the country during the year. In August the government allocated \$170 million (A\$189 million) for free Internet filtering and more resources to help police better protect children from online predators.

In June a board of inquiry created in August 2006 to investigate allegations of sexual abuse of children in Aboriginal communities in the NT reported that child sexual abuse was serious, widespread, and often unreported. The board found instances of sexual abuse in all 45 communities it visited and cited high rates of poverty and alcohol abuse as major contributing factors. Also in June, in response to what he called a "horrifying" report, the prime minister used the federal government's constitutional authority over the territories to take emergency measures in all the NT indigenous communities, including emergency bans on alcohol and pornography sales, restrictions on the payment of welfare benefits in cash, linkage of support payments to school attendance, and medical examinations for all NT indigenous children under age 16. Some of the emergency measures as well as other remedial assistance for indigenous communities were codified in legislation approved by Parliament in August. The public generally welcomed the announcement; however, some lawyers and Aboriginal activists expressed concern that there was inadequate consultation and that the changes might be racially discriminatory.

In October a coroner's inquiry into whether alcohol and drugs contributed to the deaths of up to 23 indigenous persons in the Kimberley region of WA's far north found that children often went without food because their parents spent money on alcohol. Also in October, the WA government appointed the state's first commissioner for children and young persons, reporting directly to the state parliament, to act as an independent advocate and to ensure the protection of children.

Trafficking in Persons

The law prohibits all forms of trafficking in persons, but the country continued to be a destination for some trafficked women in the sex industry and trafficked laborers.

Some women, primarily from the People's Republic of China (PRC), the Republic of Korea, and Southeast Asia, entered the country for the purpose of prostitution, sometimes entering with fraudulently obtained tourist or student visas. Many of these women traveled to the country voluntarily to work in both legal and illegal brothels, but under conditions that amounted to debt bondage or sexual servitude. There were several reports of men and women from India, the PRC, and South Korea migrating to Australia temporarily for work whose labor conditions amounted to slavery, debt bondage, and involuntary servitude.

Authorities believed that sex trafficking networks were composed primarily of individual operators or small crime groups that often relied on larger organized crime groups to procure fraudulent documentation for the trafficked women.

The Commonwealth Criminal Code comprehensively criminalizes "people trafficking" offenses, including sexual servitude, slavery, deceptive recruitment, debt bondage, child trafficking, and domestic trafficking. These offenses carry penalties of up to 25 years' imprisonment for slavery, debt bondage, child trafficking, and domestic trafficking; 15 years for sexual servitude; and seven years for deceptive recruitment. Under the Child Sex Tourism Act, it is an offense for citizens or residents to travel abroad to engage in sex with minors under age 16.

The government had a wide range of programs to combat trafficking, prosecute traffickers, and assist trafficking victims. The AFP and DIAC have lead roles in combating trafficking in persons. The AFP's Transnational Sexual Exploitation and Trafficking Teams are responsible for investigating trafficking syndicates operating in the country and abroad. State police forces worked closely with the AFP on a comprehensive policing strategy to counter trafficking in persons. From 2004 through March 1, 2007, the AFP investigated 117 cases relating to allegations involving slavery, deceptive recruiting, and sexual servitude, as well as more than 150 allegations of child sex tourism offenses. Since passage of an expanded antitrafficking law in 2005, four persons were convicted of trafficking-related offenses. At year's end three of these cases were under appeal, and eight additional trafficking cases were before the courts.

An ambassador for people-smuggling issues is responsible for promoting a coherent and effective international approach to combating trafficking in persons (particularly in the Asia-Pacific region), assisting in the negotiation of international agreements for the return and resettlement of persons brought illegally into the country, and working for the prosecution of traffickers in persons. The ambassador coordinates the country's participation with Indonesia in the Bali Process on People Smuggling,

Trafficking in Persons, and Related Transnational Crime. The government has antitrafficking agreements with Cambodia, Burma, Laos, and Thailand designed to improve international cooperation and police investigations of trafficking syndicates. The government also funded awareness campaigns in source countries and continued funding the Asia Regional Cooperation to Prevent People Trafficking project. Underway in four countries--Thailand, Laos, Burma, and Cambodia--the project focused on strengthening the criminal justice process to combat trafficking in persons.

Within the country the government continued an awareness campaign targeting the sex industry and the community at large and widely publicized criminal cases against traffickers. Trafficking victims willing to cooperate with authorities in the investigation and prosecution of traffickers qualify for a temporary visa and a range of social services. Counseling, temporary shelter, and other assistance were available to all trafficking victims.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment; education; access to premises; provisions of goods, services (including health services), and facilities; accommodation; purchase of land; activities of clubs and associations; sport; and the administration of federal laws and programs, and the government effectively enforced the law.

The disability discrimination commissioner, which is part of HREOC, promotes compliance with federal laws that prohibit discrimination against persons with disabilities. The commissioner also promotes implementation and enforcement of state laws that require equal access and otherwise protect the rights of persons with disabilities. The law also provides for mediation by HREOC of discrimination complaints, authorizes fines against violators, and awards damages to victims of discrimination.

HREOC's July 2006 to June 2007 annual report stated that 802 complaints were filed under the Disability Discrimination Act. Of these, 46 percent were employment related, and 29 percent involved the provision of goods and services. HREOC resolved 682 complaints, 44 percent through conciliation.

As part of its "welfare to work" reforms, the Howard government tightened eligibility for disability pensions but increased assistance for persons with disabilities seeking work and incentives for employers to hire persons with disabilities.

National/Racial/Ethnic Minorities

According to HREOC's July 2006 to June 2007 annual report, it received 250 complaints under the Racial Discrimination Act. Forty-two percent involved employment, 16 percent involved provision of goods and services, and 15 percent alleged "racial hatred." Persons born outside the country filed 60 percent of the complaints, and Aboriginals and Torres Strait Islanders filed 25 percent.

In May a member of a neo-Nazi group, charged together with the group's leader, Jack van Tongeren, with involvement in a 2004 conspiracy to firebomb Chinese restaurants in Perth, was convicted and sentenced to four and one-half years' imprisonment. Van Tongeren was released in December 2006 after he agreed to plead guilty to criminal damage and conspiracy to cause arson and was required to leave Western Australia.

Indigenous People

According to the June 2006 census, Aboriginals and Torres Strait Islanders numbered approximately 517,200 persons, approximately 2.5 percent of the total population. The government's approach toward indigenous citizens continued to emphasize "practical reconciliation" aimed at raising the health, education, and living standards of indigenous people. The National Indigenous Council, an indigenous advisory group, provided advice to the government on improving conditions for indigenous people. In April Prime Minister Howard wrote to the top 100 companies in the country urging them to support and employ more members of the indigenous community. He also instructed all government agencies to prepare detailed action plans to help bridge the gap in living standards between indigenous and nonindigenous citizens. The Howard government favored an approach promoting individual responsibility and an end to passive welfare. A wide variety of continuing government initiatives and programs sought to improve all aspects of Aboriginal and Torres Strait Islander life. The government budgeted \$2.8 billion (A\$3.1 billion) for indigenous-specific services in 2006-7 and \$3.15 billion (A\$3.5 billion) in 2007-8.

In July the Supreme Court of South Australia ruled that an Aboriginal man was treated unlawfully when he was placed with a nonindigenous foster family in 1958 at age 13 months without his parents' permission. He was placed with the foster family after being hospitalized for a stomach ailment. The court awarded the man \$473,000 (A\$525,000) in compensation. The South Australia State government stated it would not appeal the decision.

According to the government's third report on *Overcoming Indigenous Disadvantage*, released in June, the life expectancy of an indigenous person was 17 years less than that of a nonindigenous person. The report, which compared up to 10 years of available data, noted improvements in some areas, including increases in indigenous employment, home ownership, and education levels, and decreases in infant mortality rates and hospitalizations of children up to age 14 for diseases associated with poor environmental health. Despite these improvements, wide gaps remained between the indigenous and nonindigenous populations in virtually every area. The infant mortality rate was still two to three times the rate for the total population. From 2001 to 2005 there was an increase in the number of long-term health problems among indigenous people. For example, kidney disease among the indigenous population increased from five times the nonindigenous rate in 2001 to 10 times the nonindigenous rate in 2005. Older indigenous persons also had increased hospitalization rates for diseases associated with poor environmental health.

The report also found that indigenous imprisonment rates increased by 32 percent between 2000 and 2006. After adjusting for age differences, in 2006 indigenous people were 13 times more likely than the nonindigenous to be imprisoned, and indigenous juveniles were 23 times more likely to be detained.

The National Drug Research Institute reported that Aboriginals were more than twice as likely as their nonindigenous counterparts to die from alcohol abuse; researchers cited high rates of poverty and unemployment, low educational levels, and lack of adequate access to health services among Aboriginals as contributing causes, particularly in isolated communities. In October evidence in a coroner's inquiry into the role of alcohol and drugs as contributors to the deaths of up to 23 indigenous people in the Kimberley region of WA's far north prompted calls for a government commission to look into inherent poverty, child sex abuse, alcohol and drug use, and unacceptably high death rates in remote Aboriginal communities. The call came as the town of Fitzroy Crossing became bitterly divided over the introduction of a controversial six-month ban on the sale of take-out alcohol.

The National Native Title Tribunal resolves native land title applications through mediation and acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. The 1993 Native Title Act removed the time limit previously in effect for lodging native title claims, and Aboriginal groups continued to express concern that the amended act limited the future ability of Aboriginal people to protect their property rights. In 2002 the High Court ruled that native title rights did not extend to mineral or petroleum resources and that, in cases where leasehold rights and native title rights were in conflict, leaseholder rights prevailed but did not extinguish native title rights.

The \$1.26 billion (A\$1.4 billion) indigenous land fund is a special account that provides an ongoing source of funds for indigenous people to purchase land for their use. It is separate from the Native Title Tribunal and is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

The NGO Aboriginal Tent Embassy in Canberra, set up in a small structure on public land opposite the old parliament building more than 30 years ago, worked to publicize Aboriginal grievances. The tent embassy, which also encompassed an itinerants' camp, remained in the same location during the year despite continued efforts to relocate it by the government and some local indigenous groups who asserted that it was not representative of the entire indigenous community. Other Aboriginal NGOs included groups working on native title issues, reconciliation, deaths in custody, and Aboriginal rights in general. International NGOs, such as Amnesty International, also monitored and reported on indigenous issues and rights.

Other Societal Abuses and Discrimination

On June 21, HREOC presented a report to Parliament noting 58 federal laws that denied same-sex couples and their children basic financial and work-related entitlements available to heterosexual couples and their children. At year's end the new government was considering the report.

In October police reported that there were nine "sexual preference prejudice" assaults during the year around Oxford Street in Sydney, a popular gay area.

Federal and various state laws prohibit discrimination on the grounds of HIV-positive status. In the 12 months ending June 30, there were 21 discrimination complaints lodged with the federal disability discrimination commissioner, which is part of HREOC, on the grounds of HIV/AIDS status. These complaints also were included in the total of 802 disability-related complaints to HREOC.

Section 6 Worker Rights

a. The Right of Association

The law provides workers, including public servants, the right of association domestically and internationally and protection against antiunion discrimination, and workers exercised these rights in practice. A 2006 ABS survey indicated that union membership decreased over the previous 12 months from 22.4 to 20.3 percent of the total workforce, and to only 15 percent of the private-sector workforce. Unions generally carried out their functions free from government or political control.

The 1996 Federal Workplace Relations Act (WRA), which contained curbs on union power, restrictions on strikes, and limits on redress and compensation claims by dismissed employees, was substantially changed by the 2005 Workplace Relations Amendment Act (known as WorkChoices), which came into effect in March 2006. Under the WRA, as amended by WorkChoices, workers are free to join or decline to join industrial associations, and discrimination against individuals for membership or nonmembership in a union is prohibited. The Australian Council of Trade Unions (ACTU, the umbrella trade union organization), the ALP, and a number of international labor organizations criticized both the 1996 law and WorkChoices, alleging that they violate a number of worker rights provided for in several International Labor Organization conventions that the government has signed, including the right to assembly. The new government, elected in part because of public opposition to WorkChoices, stated it would introduce legislation to abolish Australian Workplace Agreements (AWAs) and amend the law to provide more protection for individual workers.

In 2005 the Department of Employment and Workplace Relations advised all federal government agencies that "leave should not be made available to cover participation in industrial action." However, on September 6, the Federal Court of Australia ruled that this directive violated the WRA because one of the act's objectives was to "ensure freedom of association."

b. The Right to Organize and Bargain Collectively

Federal, state, and territorial laws provide workers with the right to organize and bargain collectively, and workers exercised this right in practice.

Under the WRA, negotiation of contracts covering wages and working conditions shifted further from a centralized awards system to enterprise-level agreements certified by the Australian Industrial Relations Commission. The WRA also provided for the negotiation of AWAs between employers and individual workers, which were subject to fewer government regulations than awards or enterprise bargaining agreements; however, AWAs had to meet a "no disadvantage" test: a worker could not be made worse off compared to the relevant award.

WorkChoices substantially changed the WRA. The law provides for five minimum standards of employment: a minimum wage, annual leave, sick leave, unpaid parental leave, and maximum working hours. All other workplace conditions are negotiable, preferably at the workplace or enterprise level. The law provides for collective workplace agreements as well as AWAs, although by providing that an employer may require new employees to sign AWAs as a condition of employment, the law favors this type of employment agreement. Once an AWA is in force, it cannot be displaced by a collective agreement, but a collective agreement may be overridden by an AWA. From March 2006, when WorkChoices was introduced, to November 30, 2007, a total of 560,758 AWAs were signed.

WorkChoices does not cover employees of unincorporated businesses, some state government employees, and sole traders and partnerships. However, employees in those categories in Victoria (which transferred its industrial relations powers to the federal government in 1997) and the territories are covered by WorkChoices.

Unions criticized as adversely affecting collective bargaining rights WorkChoices' provisions on "prohibited content," which are matters that the law prohibits from inclusion in workplace agreements. Such prohibitions include, for example, mandatory union involvement in dispute settlement and remedies for unfair dismissal. The law also provides for imposition of fines for violation of the "prohibited content" provisions.

Under WorkChoices unions can enter certain workplaces to investigate a suspected breach of the WRA or hold discussions with employees. However, unions may only enter a workplace to investigate a breach of an award or collective agreement if a union member is carrying out work at the premises and the suspected breach affects a union member. If all employees are on AWAs or there is a collective agreement to which the union is not a party, a union does not have a right of entry for discussion purposes.

Federal law first recognized an implicit right to strike in 1994. The WRA significantly restricted this right. The law, as amended by WorkChoices, subjects strikers to heavy fines for taking industrial action during the life of an agreement and contains tough secondary-boycott provisions. The law confines strikes to the period when unions are negotiating a new enterprise agreement and specifies that strikes must concern matters under negotiation. This is known as "protected action." Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action. WorkChoices requires industrial action to be authorized by a secret ballot of employees; unions complained that this requirement was unduly time consuming and expensive to implement. The law permits the government to stop strikes if they are judged to have an "adverse effect" on the employer or damage third parties, but this provision was not used during the year.

According to the ABS, during the 12 months ending September 30, there were 151 industrial disputes, 105 fewer than the previous year; during the same period, total workdays lost due to strikes fell from 159,400 to 79,600. In December a curtain manufacturer reportedly threatened to dismiss its entire staff if they voted to take industrial action in pursuit of a new enterprise agreement. One worker subsequently left the union, and five others agreed to vote against industrial action. The Workplace Ombudsman was reviewing the case at year's end.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law explicitly prohibits forced or compulsory labor, including by children; however, trafficking in persons was a limited problem.

d. Prohibition of Child Labor and Minimum Age for Employment

There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, enforced by state educational authorities, effectively prevented most children from joining the work force full time until they were 15 or 16 years of age. Federal and state governments monitored and enforced a

network of laws, which varied from state to state, governing the minimum school-leaving age, the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations. The ACTU also monitored adherence to these laws. Workers under age 18 require parental or guardian consent to sign an AWA.

e. Acceptable Conditions of Work

Although a formal minimum wage exists, most workers received higher wages through enterprise agreements or individual contracts. There are above-minimum wage classifications for individual trades and professions. In October the Australian Fair Pay Commission, which determines minimum wage increases, raised the federal minimum award wage to \$470.57 (A\$522.86) per week from \$461.34 (A\$512.60) per week. The ACTU criticized the increase as inadequate, claiming it did not keep up with inflation. According to the ABS, real wages increased by 3.1 per cent between July 1, 2006 and June 30, 2007, compared with an increase of 1.8 per cent during the previous 12 months.

In response to concerns that employees signing AWAs were being stripped of formerly mandated conditions of employment (such as higher pay for working weekends or holidays) without adequate compensation, in May the government announced it would introduce proposed legislation to establish a "fairness test" for AWAs; in June Parliament passed this provision. The Office of Employment Advocate was renamed the "Workplace Authority" and the Office of Workplace Services became the "Workplace Ombudsman." The Workplace Authority conducts the fairness test by considering both monetary and nonmonetary compensation offered under an AWA compared to what would be payable otherwise. If the fairness test is not met, an AWA is not approved. The Workplace Ombudsman provides employers and employees advice about their rights and has authority to investigate employers alleged to have unlawfully exploited employees.

As of November 30, the Workplace Authority had received 222,276 AWAs for review since the fairness test was introduced. Of the 72,859 agreements finalized, 41,273 passed the fairness test and an additional 9,139 passed following acceptance of recommendations from the Workplace Authority. The fairness test did not apply to 15,754 agreements, either because protected award conditions did not change or because the employee earned more than \$67,500 (A\$75,000) per year. The authority voided 6,693 agreements because required changes were not made.

Over the past two decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. The ABS reported that, as of December, approximately three million persons (28.2 percent of the workforce) were employed as "part-time" workers, of whom 71 percent were women. Such employees were not entitled to certain employment benefits such as sick leave or annual leave but were paid at a higher hourly wage rate.

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

Labor law protects citizens, permanent residents, and migrant workers alike. Migrant worker visas require that employers respect these protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits. However, there were complaints that some individuals entering the country to work temporarily on so-called 457 skilled-worker visas were being underpaid or charged excessive rents by their employers. There also were complaints that some employers used foreign workers as a less expensive substitute for Australian workers. In September a parliamentary committee recommended that DIAC review its entire 457 program, focus more on employer compliance with program requirements, and provide clear instructions to both employers and employees as to their rights under the program. There were no reports of worker rights abuses in the country's three inhabited dependent territories of Christmas Island, Cocos (Keeling) Island, and Norfolk Island.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Brunei

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Brunei Darussalam is a sultanate ruled by the same family for more than 600 years, and it has a population of approximately 383,000. Sultan Haji Hassanal Bolkiah governed under emergency powers that place few limits on his power. The Legislative Council, with a limited role in recommending and approving legislation, met during the year and expanded its activity to include a debate of the government budget. The sultan maintained control over the security forces.

The following human rights problems were reported: inability of citizens to change their government; arbitrary detention; limits on freedom of speech, press, assembly, and association; restrictions on religious freedom; discrimination against women; restricted labor rights; and exploitation of 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

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 mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory for 42 criminal offenses, and it was included in 80 percent of criminal sentences. During the year, 68 persons were sentenced to caning for immigration violations. Canings were carried out in the presence of a doctor, who had the authority to interrupt the punishment for medical reasons.

Prison and Detention Center Conditions

Prison conditions generally met international standards.

In August the government opened a new welfare housing complex for juvenile offenders and children in need of shelter and rehabilitation. Previously juveniles served their sentences in adult detention centers, but segregated from adults. Conditions in police station detention cells were Spartan. During the year there were credible reports that Internal Security Act (ISA) detainees had been held in isolation, were denied access to sunlight or fresh air, and were denied facilities suited to performing Islamic religious obligations. Independent sources asserted that conditions improved at the ISA facility in response to complaints by detainees.

During the year there were no reports that human rights monitors requested prison visits; foreign diplomats had consular access to detained nationals. Family members were permitted to visit prisoners and bring food.

d. Arbitrary Arrest or Detention

The law provides for prompt judicial determination regarding the validity of an arrest but in practice these provisions were superseded through invocation of emergency powers.

Role of the Police and Security Apparatus

The police force and Internal Security Department (ISD) are under the direct control of the Prime Minister's Office. The police and the ISD were considered free of major corrupt practices, although there were reports of petty corruption. There were 13 arrests involving police and military personnel for criminal acts. There were no reports of prosecution or conviction of police or military personnel for corruption.

Arrest and Detention

A magistrate must endorse a warrant for arrest, except when police are unable to otherwise obtain an endorsement in time to prevent the flight of a suspect. Police officers have broad powers to make warrant-less arrests of persons caught in the act of committing a crime. For these arrests, police may detain a suspect up to 48 hours before bringing the individual before a magistrate.

The ISA permits the government to detain suspects without trial for renewable two-year periods. ISA detainees are denied the right to legal counsel and are not presumed to be innocent. According to reports, detainees were promptly informed of the charges against them. Information on detainees is made public only after their release.

The government regularly convened an independent advisory board consisting of executive and judicial branch officials to review individual ISA detentions and recommend whether they should be renewed for an additional two years.

The criminal procedure code allows for bail except in cases indicated as "discretionary" by law. Detainees generally had prompt access to lawyers and family visitations; however, police may deny access in exceptional cases, such as probable cause to suspect witness tampering. There is no legal provision to provide affordable legal counsel for poor defendants, except in capital cases. In non capital cases, indigent defendants may act as their own lawyers in court.

In July the government released five persons detained in 2004 under the ISA for involvement in a counterfeit ring, including Sofri Dahali, Abdul Salam Dollah, Bakar Bali,

Razali Kahan, and Juni Garip. An advisory board renewed the detention of three remaining detainees allegedly involved in the ring. According to official information, five persons were being held under the ISA at the end of the year.

e. Denial of Fair Public Trial

The law does not provide specifically for an independent judiciary, but the courts appeared to act independently, and there were no known instances of government interference with the judiciary. All higher court judges are appointed by and serve at the pleasure of the sultan.

The judicial system consists of five levels of courts, with final recourse for civil cases available through the Privy Council in the United Kingdom.

A court run by the military legal unit provides military personnel with the same rights as in civilian criminal court.

Trial Procedures

Secular law, based on English common law, provides citizens with a fair and efficient judicial process. Procedural safeguards include the right to defense counsel, an interpreter, and a speedy trial, as well as the right to confront accusers and to avoid self-incrimination. Lawyers have access to the accused once charges are filed through the trial process, but not during initial questioning. Defendants in criminal proceedings are presumed innocent. Most criminal cases are conducted in public trials by a judge or panel of judges. ISA detainees were denied the right to legal counsel and were not presumed to be innocent.

Shari'a (Islamic law) supersedes secular law for Muslims in cases of divorce, inheritance, and some sexual crimes. Shari'a is not applied to non-Muslims.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees; however, information was very difficult to obtain.

Civil Judicial Procedures and Remedies

There is no specific provision of law to bring civil suit for human rights violations. In customary practice individuals may present written complaints about rights violations to the sultan directly for review. Such complaints were typically handled privately, and there were no reports of civil remedies handled in this manner during the year. Individual government servants who act outside their authority resulting in a civil wrong may be subject to fines or prosecution. Civil courts are generally unbiased.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law permits government intrusion into the privacy of individual persons, families, and homes. Shari'a permits enforcement of khalwat, an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse or close male relative. There continued to be numerous reports that religious enforcement officers entered homes, buildings, and vehicles to detain suspects. According to religious authorities, 691 khalwat cases were reported in 2007, almost double the number for 2006. According to the Ministry of Religious Affairs, many reported khalwat cases were dropped for lack of evidence.

The government monitored citizens' private e-mail, cell phone messaging, and Internet chatroom exchanges believed to be subversive. An informant system was used as part of the government's internal security apparatus to monitor suspected dissidents.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Under the emergency powers, the government significantly restricted freedom of speech and of the press. Members of the legislative council are allowed to "speak their opinions freely," but they are prohibited from using language or exhibiting behavior deemed "irresponsible, derogatory, scandalous, or injurious," and may be disqualified for service on the basis of various offenses, including disloyalty to the sultan.

Under the Sedition Act, it is an offense to challenge in any way the authority of the sultan or members of the royal family. The act also makes it an offense to challenge "the standing or prominence of the national philosophy, the Malay Muslim Monarchy concept." This ideology permeates the country's life and government administration, promoting Islam as the state religion and monarchical rule as the sole governing system, upholding the rights and privileges of the Brunei Malay race.

The act provides for prosecution of newspaper publishers, proprietors, or editors who publish anything allegedly having a seditious intent. Publication may be suspended for up to one year, and publishers, printers, or editors can be prohibited from publishing, writing, or editing any other newspaper. Printing equipment can also be seized. Persons convicted under the act face fines of up to \$3,500 (B\$5,000) and jail terms of up to three years.

The law requires local newspapers to obtain operating licenses and prior government approval of foreign editorial staff, journalists, and printers. The law also gives the government the right to bar distribution of foreign publications and requires distributors of foreign publications to obtain a government permit. The law allows the government to close a newspaper without giving prior notice or showing cause. Journalists deemed to have published or written "false and malicious" reports may be subjected to fines or prison sentences.

The country's daily newspapers, the *Borneo Bulletin* and the *Brunei Times*, practiced self-censorship in their choice of topics to avoid angering the government. However, letters to the editor often included comments critical of government handling of certain social, economic, and environmental issues. On occasion the government responded to public opinion on topics concerning social or environmental problems and the delay of public services.

Foreign newspapers were routinely available, although the government must approve their distribution. Internet versions of foreign media were routinely available.

The government owned the only television station. Three Malaysian television stations were also available, along with two satellite television services. Some content was subject to censorship based on theme, but such censorship was not consistent.

The government's tolerance of political criticism was not tested, since there was no organized opposition. In the past the government arrested those who attempted to propagate unwelcome political views. Local media published limited reports on the activities of two political parties.

On January 17, Isa bin Haji Jaya, William bin Rahman, and Tuah bin Sabang were released for good behavior after serving eight months in prison. The three had been sentenced to one year in prison and fined \$3,200 (B\$5,000) under the sedition act for distributing via mobile telephone a satirical video clip depicting immediate members of the royal family.

Internet Freedom

According to official statistics, more than 19,000 households have Internet access and over 176,000 people (nearly half of the population) were Internet users. The government monitored private e-mail and Internet chatroom exchanges of citizens believed to be subversive. There was anecdotal information that fear of government surveillance reduced the number of visitors to Internet forums. The primary Internet service provider was state owned.

In April 2006 the Attorney General's Chambers and Authority for Info-Communications Technology Industry advised Internet service and content providers to monitor for content contrary to public interest, national harmony, and social morals. There were no reports of any government action to enforce this advisory.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Under the emergency powers, the government significantly restricted the right to assemble. According to the Societies Order, public gatherings of 10 or more persons require a government permit, and police have the authority to stop an unofficial assembly of five or more persons deemed likely to cause a disturbance of the peace.

Freedom of Association

The law requires formal groups including religious, social, or cultural to register with the Registrar of Societies and provide regular reports on membership and finances. The government continued to restrict the activities of international service organizations such as Rotary, Kiwanis, and the Lions, which developed out of the established business community. Religious regulations promulgated by the Ministry of Religious Affairs and the State Mufti's Office prohibited Muslims from joining these organizations.

c. Freedom of Religion

The law states, "the religion of Brunei Darussalam shall be the Muslim religion according to the Shafi'i sect of that religion: Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam." However, in practice the government restricted non-Islamic religions and non-Shafi'i Islamic groups, reinforcing the legitimacy of the observance of traditional and Islamic values through its national Malay Muslim Monarchy ideology. The government controlled mosques and the Ministry of Religious Affairs prepared the weekly Friday sermons delivered in mosques countrywide.

The government used its internal security apparatus against persons it considered to be purveyors of radical Islam, non-Muslims who attempted to proselytize, and religious groups that did not belong to the official religion. According to government statistics, 30 foreign citizens were expelled in the first eight months of the year for religious violations, primarily the sale of traditional or mystical bomoh healing services.

Registration is required by law for a group to worship communally. An organization that fails to register can face charges of unlawful assembly. All non-Shafi'i religious groups are required to register as associations. There continued to be credible reports that certain Christian groups were denied permission to register or chose not to register out of the expectation that their applications would be rejected.

The government routinely restricted the practice of non-Muslim religions by prohibiting proselytizing and, in the past, occasionally denying entry to foreign clergy, banning the importation of religious teaching materials or scriptures such as the Bible, and denying requests to expand or build new churches, temples, and shrines. During the year the government permitted refurbishment of the Anglican St. Andrews Church buildings.

Non-Muslims who proselytize may be arrested or detained and held without charges for an extended period of time; however, during the year there were no reports that persons were arrested or detained for proselytizing.

Muslims who wished to change or renounce their religion faced considerable difficulties. Born Muslims faced both official and societal pressure not to leave Islam. Permission from the Ministry of Religious Affairs must be obtained, and there were no reports of anyone requesting such permission. There were instances of persons who converted to Islam (often foreign nationals) as a prelude to marrying Muslims; conversion is required by the country's Islamic law. Government statistics indicated that 24 percent of the 351 conversions to Islam during the year were due to marriage. After the marriages took place, those who wished to return to their former religion faced intense official pressure not to do so or encountered extraordinary delays in obtaining permission.

Authorities continued to arrest Muslims for offenses under Shari'a, such as khalwat and consumption of alcohol.

The Ministry of Education requires courses on Islam and the national ideology, and prohibits the teaching of other religions and comparative religious studies. However, during the year there were reports of Islamic Studies students from government-run educational institutions visiting Christian churches and attending lectures by church officials as part of their required course work. The ministry requires all students, including non-Muslims, to learn Jawi, the Malay language in Arabic-derived script. The International School of Brunei and the Jerudong International School were exempt from these requirements, but both offered voluntary, extracurricular Islamic instruction to Muslim students. Private Christian schools were not allowed to give Christian instruction but could offer voluntary, Islamic instruction to Muslim students. However, the government did not prohibit or restrict parents from giving religious instruction to children at home.

The government routinely censored magazine articles on other faiths by blacking out or removing photographs of crucifixes and other religious symbols. Government officials also confiscated religious materials and prevented public display, distribution, and sale of items featuring non-Islamic religious symbols. However, some Christian churches displayed crosses on their buildings.

The government requires residents to carry an identity card that states the bearer's ethnicity, which is used in part to determine whether they are subject to Shari'a law. Visitors to the country were asked to identify their religion on their visa applications. Ethnic Malays are assumed to be Muslim, and therefore subject to Shari'a law. Non-Muslims are not held accountable to Shari'a precepts. Religious authorities check identity cards for ethnicity when conducting raids.

Only Islamic groups belonging to the Shafi'i school were permitted to organize public religious processions; however, the government allowed public lion dances to celebrate the Chinese Lunar New Year.

Societal Abuses and Discrimination

The country's various religious groups coexisted peacefully. There were no known Jewish communities in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2007/100514.htm).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

Generally the government did not restrict the freedom of movement of citizens, visitors, and permanent residents. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad, which was granted routinely. The government restricted the movement of former political prisoners during the year following their release.

By law the sultan may forcibly exile, permanently or temporarily, any person deemed a threat to the safety, peace, or welfare of the country. However there have been no cases of banishment since 1984.

Protection of Refugees

The laws do not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and the 1967 protocol. The government has not established a system for providing protection to refugees. During the year the government did not grant refugee status or asylum. In practice, the government did not provide protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. There were no reported cases of individuals seeking temporary refuge.

Stateless Persons

A sizeable number of "stateless" persons, including persons born and raised in the country, were not automatically accorded citizenship and its attendant rights but were granted permanent resident status. Since these individuals, mostly ethnic Chinese, did not enjoy full privileges of citizenship, they did not have the right to own land and were not entitled to subsidized health care or higher education. In lieu of Brunei passports, the government issued "certificates of identity" to allow these persons international travel and reentry; foreign visas may be entered in the certificates.

Primary education is free for citizens and permanent residents. Secondary education (above grade 10 equivalent) is free for citizens; fees of approximately \$100 (B\$140) per month are required for non citizens. University education is free for citizens; yearly fees for non citizens are approximately \$2,000 to \$2,500 (B\$2,800 to B\$3,500).

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.

The same family has ruled the country for more than 600 years. In 1962 the then sultan invoked an article of the constitution that allowed him to assume emergency powers for two years. These powers have been renewed every two years since 1962, most recently in March 2006. The state of emergency places few limits on the sultan's power. The sultan also serves as prime minister, minister of defense, minister of finance, chancellor of the national university, inspector general of the Royal Brunei Police Force, and head of the Islamic faith.

Elections and Political Participation

Political authority and control rested entirely with the sultan. A 29-person legislative council made up primarily of appointed members provided a forum for public discussion of proposed government programs as well as administrative deficiencies. However, the council held no independent power. In 2005 the sultan increased the membership of the legislative council to include five indirectly elected members from Brunei's four administrative districts, elected by their peers from among mukim (collection of villages) and village heads. The legislative council held a five-day session in March. Government departments were instructed to submit new budget proposals to the council for its approval.

Persons 18 years of age and above may vote by secret ballot in village consultative council elections, which are based on a traditional system of village chiefs. Candidates must be Muslim, approved by the government, and be citizens or permanent residents for more than 15 years. The councils communicated constituent wishes through a variety of channels, including periodic meetings chaired by the minister of home affairs. The government also met with mukim representatives to allow for airing of local grievances and concerns.

During the year the government held nation-wide assemblies of the Mukim and Village Consultative Councils to address social issues at the grassroots level.

At the end of the year, the Brunei National Development Party (NDP) remained the only registered political party in Brunei. In March the Brunei People's Awareness Party (PAKAR) lost its registration due to internal leadership disputes. In November the Brunei National Solidarity Party (PPKB), the oldest political party, was deregistered due to its failure to furnish annual reports to the Registrar of Societies. NDP, as had the other parties prior to deregistration, pledged to support the sultan and the government. Although the parties criticized administrative deficiencies, their few activities received limited publicity and they were hindered by membership restrictions. Several members and former members of political parties were consulted informally about the work of the legislative council.

During the year there were credible reports that government officials advised members of political parties not to discuss certain politically sensitive issues during their congresses.

Individuals sought to express their views or influence government decisions and policies by posting messages to Internet discussion boards, writing letters to local newspapers, and petitioning the sultan or handing him letters when he appeared in public.

There were no female ministers in the government or the legislative council; however, the sultan's sister, Princess Masna, was the second-ranking official in the Ministry of Foreign Affairs, and one of four permanent secretaries in the Prime Minister's Office was a woman. One cabinet-level post and two Legislative Council position were held by ethnic Chinese.

Government Corruption and Transparency

There were reliable reports of corruption in the government. In accordance with its zero tolerance policy for corrupt practices, the government successfully prosecuted a number of low-level officials. At year's end the case of a former government minister accused of corruption in awarding government projects was pending a final ruling from the chief justice.

During the year the Legislative Council approved, and the government published, a summary of the fiscal year government budget. However, the government continued to restrict and classify as confidential some information on the financial dealings of the government and the royal family. The law provides that no court can compel any person to give evidence relating to unpublished government records unless consent is given by the relevant government ministry's permanent secretary. The Anti-Corruption Bureau, under the purview of the Prime Minister's Office, reports directly to the sultan.

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

Few if any civil society organizations dealt directly with human rights. A nongovernmental organization (NGO) seeking to operate in the country is required to apply for permission under the Companies Act and provide a list of members. The government may suspend the activities of a registered NGO if it deems such an act in the public interest.

The 432 registered NGOs were generally professional, business, sports, or social associations. In the past the Consumers' Association of Brunei attempted to address human rights, but the government impeded these attempts. However, the association remained active in building relationships with other NGOs in the region dealing with consumer protection issues.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

The law stipulates imprisonment of up to 30 years and caning with not fewer than 12 strokes for rape; for the rape of a minor the penalty is eight to 30 years' imprisonment and caning with not fewer than 12 strokes. The law does not criminalize spousal rape; it explicitly states that sexual intercourse by a man with his wife, as long as she is not under 13 years of age, is not rape. According to police statistics, there were 24 reported rape cases during the year; four of these cases resulted in conviction, and the remaining 20 were under investigation. Police were generally responsive in the investigation of such cases.

In August a nation-wide Friday sermon prepared by the Ministry of Religious Affairs condemned the immodest dress of young women as leading to social ills and potentially inciting rape. Government officials indirectly criticized the linkage to rape.

During the year there were 111 reported cases of domestic violence against women, resulting in 10 convictions and 101 ongoing investigations. The criminal penalty for a minor domestic assault is one to two weeks in jail and a fine. An assault resulting in serious injury is punishable by caning and a longer jail sentence.

A special unit staffed by female officers existed within the police department to investigate domestic abuse and child abuse complaints. A hot line was available for persons to report domestic violence. The Ministry of Culture, Youth, and Sport's Department of Community Development (DCD) provided counseling for women and their spouses. Based on individual circumstances, some female and minor victims were placed in protective custody in the DCD-operated Taman Noor Hidayat shelter while waiting for their cases to be brought to court.

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

Prostitution is illegal. Women who entered the country for purposes of prostitution generally were tried, sentenced, and deported swiftly.

In accordance with the government's interpretation of Koranic precepts, Muslim women have similar rights as Muslim men in areas such as in divorce and custody of children, as provided under Emergency Order 1999 (Islamic Family Law), although local law requires that males receive twice the inheritance of women. The law permits female citizens to pass their nationality on to their children and to own property and other assets, including business properties.

Men were eligible for permanent positions in government service whether or not they had university degrees, but married women without university degrees were only eligible to hold government positions on a month-to-month basis. Women in these month-to-month positions could not apply for travel allowances for their husband and children. With this exception, they received the same allowance privileges as their college-educated counterparts in permanent positions.

Children

No statistics were published regarding the welfare of children. The strong commitment to family values within society, the high standard of living, and government funding for children's welfare provided most children a healthy and nurturing environment. Education is free, compulsory, and universal for the first 12 years, after which it is still free but no longer compulsory. The highest level of education achieved by most children was completion of secondary school, which normally consists of 12 to 14 years in school, ending between ages 16 to 18, depending on whether the course of study pursued is vocational, academic, or arts.

Medical care for all citizens, including children, was heavily subsidized and widely available.

Trafficking in Persons

The law prohibits trafficking and sexual exploitation of women and girls, and there were no confirmed reports that persons were trafficked to, from, or within the country. There were very few identifiable cases of trafficking; however, it was likely that trafficking of foreign workers recruited from Indonesia, the Philippines, Pakistan, India, and Bangladesh took place. Such workers occasionally faced harsh, exploitative conditions in which their freedom of movement was restricted. There were reports that women arrested for prostitution subsequently claimed to have been victims of trafficking. There were also reports that the country was used as a transit stop for smugglers trafficking women to third countries.

Under the Trafficking and Smuggling Persons Order, a person convicted of trafficking persons, harboring smuggled persons, or endangering the lives or safety of trafficked or smuggled persons can be fined up to \$700,000 (B\$1 million), imprisoned for up to 30 years, and caned. A person convicted of facilitating trafficking or smuggling persons can be fined up to \$35,000 (B\$50,000) and imprisoned for up to 10 years. Immigration and other law enforcement officials received training to investigate and prosecute suspected offenders and to deal with trafficked victims. During the year there were no reported cases of prosecutions for human trafficking, nor were there any reports of government officials involved in trafficking. A national committee coordinates government-wide strategies for combating transnational crime, including trafficking.

The country had limited capacity to protect foreign trafficking victims. There were no NGOs to assist trafficking victims, and victims were subject to prosecution for violations of immigration and labor codes. There was no formal system of protection or benefits for foreign trafficking victims. In cases where the government considers a victim to be a material witness in the prosecution of traffickers, police will provide temporary protection and shelter as necessary for prosecution. Several foreign embassies also provided shelter for persons who may have been victims of trafficking.

Persons with Disabilities

The law does not mandate accessibility or other assistance for persons with disabilities. The government provided educational services for children with disabilities, but countrywide the level of services available was uneven. In December Brunei became a signatory to the UN Convention on the Rights of Persons with Disabilities. The community development department of the Ministry of Culture, Youth, and Sports conducted several programs targeted at promoting awareness of the needs of people with disabilities.

Other Societal Abuses and Discrimination

There were no reports of societal violence or discrimination based on sexual orientation or against persons with HIV/AIDS. The law makes it a criminal offense to have "sexual intercourse against the order of nature." There were no reports of official discrimination based on sexual orientation in employment, housing, access to education, or health care.

Section 6 Worker Rights

a. The Right of Association

Under the Trade Unions Act, unions are legal and must be registered with the government. All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form and join trade unions; however, in practice there was very little union activity in the country. The government did not encourage unions or facilitate their formation, and employers in the industrial sector did not encourage foreign workers to form unions. The three registered trade unions were in the oil sector and had a total membership of less than 5 percent of the industry's total work force. It was estimated that there were 88,000 foreign workers, including approximately 5,775 garment industry workers, none of whom were members of any trade union.

While the law permits the formation of trade union federations, it forbids affiliation with international labor organizations unless there is consent from the home affairs minister and Department of Labor (DOL).

In January Brunei became a member of the International Labor Organization.

b. The Right to Organize and Bargain Collectively

The law prohibits employers from discriminating against workers in connection with union activities but provides no legal framework for collective bargaining. There was very little union activity in the country, and employer discrimination against union members was not reported. The law makes no explicit provision allowing the right to strike. Wage and benefit packages were based on market conditions.

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

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were isolated reports of non payment of wages and little or no time off for some foreign domestic workers.

d. Prohibition of Child Labor and Minimum Age for Employment

Various laws prohibit the employment of children under age 16. Parental consent and approval by the Labor Commission is required for those under 18. Female workers under 18 may not work at night or on offshore oil platforms. The DOL, which is part of the Ministry of Home Affairs, effectively enforced laws related to the employment of children. There were no reports of violations of child labor laws.

e. Acceptable Conditions of Work

Most employed citizens commanded good salaries. There is no minimum wage. The standard workweek is Monday through Thursday, and Saturday, with Friday and Sunday off, allowing for two rest periods of 24 hours each week. Overtime is paid for work in excess of 48 hours per week, and double time is paid for work performed on legal holidays.

Occupational health and safety standards are established by government regulations. The DOL inspected working conditions on a routine basis and in response to complaints. The DOL generally enforced labor regulations effectively, but enforcement in the unskilled labor sector was lax, especially for foreign laborers at construction sites, where pay arrearage and inadequate safety and living conditions were reported. The DOL may close a workplace where health, safety, or working conditions are unsatisfactory. The law permits a worker to leave a hazardous job site without jeopardizing his employment, but generally this did not occur.

According to government data, approximately 88,000 foreign persons worked in the country. There were an estimated 25,000 foreign workers in domestic jobs not included in the official labor statistics. There were reports of foreign maids and other domestic workers whose liberty was severely restricted while working exceptionally long hours without being granted a day for rest. There also were isolated reports of employers who beat domestic employees or did not provide them with adequate food. The government prosecuted some cases; employers found guilty of abuses typically were fined or sentenced to prison and ordered to compensate the victim.

Government protective measures for foreign workers included arrival briefings for workers, inspections of facilities, and a telephone hot line for worker complaints. Government mediation continued to be the most common means used to resolve labor disputes. Abusive employers faced criminal and civil penalties. When grievances could not be resolved, repatriation of foreign workers was at the expense of the employer, and all outstanding wages were ordered paid. The majority of abuse cases were settled out of court by the employer paying financial compensation to the worker.

Workers, most notably in the garment industry, signed contracts with employment agents or other sponsors in their home countries that reduced their promised salaries through payments to the agencies or sponsors. The government forbade wage deductions to agencies or sponsors and mandated that employees receive their full salaries; nevertheless, foreign workers continued to pay high fees to manpower agents to obtain work in the country.

Female domestic servants, most of whom were foreign workers, were sometimes subjected to abuse by their employers. While the overall level of violence was generally low, beating servants or refusing them the right to leave the house on days off was the most common form of abuse. Since most foreign female domestics were highly dependent on their employers, those subject to abuse often were unwilling or unable to bring complaints, either to the authorities or to their respective government embassies. However, when such complaints were made, the government was usually quick to investigate allegations and impose fines and punishment. Many workers settled assault cases out of court with their employers. Three foreign embassies maintained shelters for domestic workers involved in disputes with employers and were active in protecting their citizens' rights.

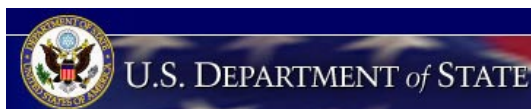
There were credible reports of domestic and construction workers from neighboring countries paying the equivalent of two months wages to fictitious employers to obtain labor passes and work freelance on the local economy. There were also credible reports of nationals from South Asian countries working for little or no pay for up to two years to pay back foreign agents for securing jobs for them.

During the year the DOL recorded 26 complaints by domestic helpers and 108 complaints by corporate/garment workers against employers who failed to pay workers' salaries. Sixteen of the complaints by domestic workers and 60 of the complaints by corporate/garment workers were resolved, largely by employer compensation payments. Eighteen complainants withdrew their complaints while the remaining cases were still under investigation.

The government also prosecuted employers who employed illegal immigrants or did not process workers' documents, rendering them in illegal status.

Immigration law allows for prison sentences and caning for workers who overstayed their work permits and illegal immigrants seeking work, as well as for foreign workers employed by companies other than their initial sponsor. While the majority of prosecutions were for long-term overstayers, many workers stayed in an illegal status due to their former employers' negligence.

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Burma

Country Reports on Human Rights Practices - 2007

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Since 1962 Burma, with an estimated population of 54 million, has been ruled by a succession of highly authoritarian military regimes dominated by the majority ethnic Burman group. The State Peace and Development Council (SPDC), led by Senior General Than Shwe, was the country's de facto government. Military officers wielded the ultimate authority at each level of government. In 1990 prodemocracy parties won more than 80 percent of the seats in a general parliamentary election, but the regime continued to ignore the results. The military government totally controlled the country's security forces without civilian oversight.

The government's human rights record worsened during the year. The regime continued to abridge the right of citizens to change their government. Government security forces killed at least 30 demonstrators during their suppression of prodemocracy protests in September, and they continued to allow custodial deaths to occur and committed other extrajudicial killings, disappearances, rape, and torture. In addition, regime-sponsored, mass-member organizations such as the Union Solidarity and Development Association (USDA) and regime-backed "private" militias increasingly engaged in harassment, abuse, and detention of human rights and prodemocracy activists. The government continued to detain civic activists indefinitely and without charges, including more than 3,000 persons suspected of taking part in prodemocracy demonstrations in September and October, at least 300 members of the National League for Democracy (NLD), and at least 15 members of the 88 Generation Students prodemocracy activists. The government continued to prohibit the International Committee of the Red Cross (ICRC) from working unhindered in conflict areas and visiting prisoners privately. The army continued its attacks on ethnic minority villagers in Bago Division and Karen and Shan states to drive them from their traditional land. The government abused prisoners and detainees, held persons in harsh and life-threatening conditions, routinely used incommunicado detention, and imprisoned citizens arbitrarily for political motives. NLD General Secretary Aung San Suu Kyi and NLD Vice Chairman Tin Oo remained under house arrest. The government routinely infringed on citizens' privacy and restricted freedom of speech, press, assembly, association, religion, and movement. The government did not allow domestic human rights nongovernmental organizations (NGOs) to function independently, and international NGOs encountered a difficult environment. Violence and societal discrimination against women continued, as did recruitment of child soldiers, discrimination against ethnic minorities, and trafficking in persons, particularly of women and girls. Workers' rights remained restricted. Forced labor, including that of children, also persisted. The government took no significant actions to prosecute or punish those responsible for human rights abuses.

Ethnic armed groups allegedly committed human rights abuses, including forced labor, although to a much lesser extent than the government. Some cease-fire groups also reportedly committed abuses, including forced relocation of villagers in their home regions. Armed insurgent groups and cease-fire groups also recruited child soldiers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were numerous reports that the government or its agents committed arbitrary or unlawful killings. The government did not punish officials responsible for the deaths. In particular, there were reports of extrajudicial killings, custodial deaths, and deaths and injuries caused by security forces using civilians to clear landmines.

On January 10, police led by Deputy Superintendent Soe Moe took Maung Chan Kun from his home in Pantanaw, Irrawaddy Division. The next morning authorities told his wife that her husband was in the local hospital, where she learned of his death and saw his body with numerous injuries to his head and shoulders, including a puncture wound to the back of his head. Pantanaw authorities told journalists that Maung Chan Kun was arrested for escaping from an army labor camp in Thaton, a charge his wife denied.

On February 9, Lin Lin Naing was found hanged in a cell at the Phadoe police station in Bago Division. Police had arrested him the night before on allegations of shoplifting. On February 10, authorities reportedly disposed of the body without the knowledge of his family. At the end of the year, the family had not located Lin Lin Naing's remains.

On March 19, Ko Naing Oo's brother discovered his body in a Rangoon police station with numerous injuries to the head, legs, and torso. USDA members in Rangoon had detained and turned Ko Naing Oo over to police the day before, following a family dispute involving another USDA member. At the station, he was reportedly interrogated by the local suburban council chairman Nyi Nyi Lwin. Witnesses reported hearing screams coming from the police station throughout the night. Authorities told Ko Naing Oo's family that he had died from a cold contracted during the night.

The Assistance Association for Political Prisoners – Burma (AAPP) estimated that authorities killed approximately 100 persons during the regime's violent suppression of peaceful prodemocracy demonstrations in September. In his December report, the UN Special Rapporteur on the Situation of Human Rights in Myanmar, Paulo Sergio Pinheiro, reported that between September 26 and 27, at least 30 persons died as a direct result of the protests and the regime's crackdown. The regime-run *New Light of Myanmar* newspaper reported that 10 protesters were killed during the September crackdown. Credible sources told Pinheiro that security forces cremated a large number of bodies at the Ye Way crematorium in Rangoon between September 27 and September 30.

On September 26, Buddhist monk and scholar U Thilavantha died in Myitkyina hospital from injuries sustained while in custody. On September 25, U Thilavantha was arrested by soldiers at his monastery in Myitkyina in Kachin State. Witnesses reported that soldiers severely beat him while in custody. Authorities reportedly told pathologists at the hospital where he was taken to record heart disease as the cause of death.

On September 27, a member of the security forces shot and killed foreign photojournalist Kenji Nagai while he was covering the violent suppression of a peaceful prodemocracy demonstration in downtown Rangoon. Authorities initially claimed that Nagai was killed by a rock thrown by protesters but later recanted when presented with videotape and Japanese forensic evidence demonstrating he had been shot at close range. However, a December 20 editorial in the *New Light of Myanmar* disputed the Japanese autopsy's findings and claimed that Nagai had been accidentally shot from a distance of more than 30 yards rather than at close range. It also asserted that Nagai was responsible for his own death because he had entered the country illegally on a tourist visa.

On October 9, NLD member Win Shwe died during questioning in Plate Myot Police Station. He was arrested for his alleged participation in the demonstration on September 26 near Mandalay. His body was not returned to his family.

On November 3, 22-year-old Ko Ko Win died of head injuries inflicted by authorities during the violent suppression of prodemocracy protests in Rangoon. Witnesses reported that authorities severely beat Ko Ko Win as he participated in peaceful demonstrations on September 27. Family members reported that he suffered from severe dizziness, headaches, and nausea after he returned home that day. On October 5, they took him to a local hospital, where he died on November 3.

Witnesses at a Rangoon detention center reported that at least 14 persons arrested during the demonstrations died in custody between September and October due to mistreatment and poor conditions (see section 1.c.).

The government took no action to punish those responsible for custodial deaths in 2006, including the following cases: a prisoner beaten to death in January by prison authorities at a labor camp in Rakhine State after he killed a prison official who had beat him; former political prisoner Thet Naing Oo, reportedly beaten and killed in March by members of a government-affiliated "fire brigade" and two police corporals; Wai Phyo Naung, who died in the custody of Mandalay police in March and whose postmortem report revealed signs of torture and beating; Ma Nyo Kyi, who died in custody in June after being arrested by the Myo Hla police; and Saw Stin Pho, who died in Patheingyi Military Headquarters in July after being interrogated by Military Security Affairs (MSA) personnel.

There were no developments in the 2005 killings of the following persons: NLD member Aung Hlaing Win; labor activist Moe Naung; NLD member Min Htoo Wai; Saw Stanford of Tawako Village, Ayeyarwady Division; Htay Lwin of Aung Myay Thazan Township, Mandalay Division; Aung Myint Thein of Bago Division; and Ko Than Htaik.

The government persisted in its refusal to investigate or take responsibility for the 2003 attack by government-affiliated forces on an NLD convoy led by party leader Aung San Suu Kyi near the village of Depeyin, in which as many as 70 persons were killed. The fate of other persons, including 31 prodemocracy supporters from the convoy, remained unknown.

b. Disappearance

Private citizens and political activists continued to "disappear" for periods ranging from several hours to several weeks or more, and many persons never reappeared. Such disappearances generally were attributed to authorities detaining individuals for questioning without informing family members and to the army's practice of seizing private citizens for portering or related duties, often without notifying family members. Requests for information directed to the military forces were routinely ignored. In some cases individuals who were detained for questioning were released soon afterward and returned to their families. UN Special Rapporteur Pinheiro reported at least 74 cases of enforced disappearance where authorities were unable or unwilling to account for the whereabouts of persons allegedly taken into custody.

Witnesses reported the regime conducted numerous nighttime raids on monasteries and private homes following September's peaceful prodemocracy protests. In Rangoon local witnesses, media, and foreign diplomatic representatives reported that large numbers of residents were taken from their homes and many monks were missing from their monasteries after the crackdown began on September 26. At year's end many of the monks had not returned, and many remained missing.

The whereabouts of persons seized by military units to serve as porters, as well as of prisoners transferred for labor or portering duties, often remained unknown. Family members generally learned of their relatives' fates only if fellow prisoners survived and later reported information to the families.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

There are laws that prohibit torture; however, members of the security forces and other progovernment forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. They routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient. As in previous years, authorities took little or no action to investigate the incidents or punish the perpetrators.

In his December report, Pinheiro cited reports of torture and degrading conditions of detention that failed to meet international standards on the treatment of prisoners and constituted cruel, inhuman, and degrading treatment prohibited under international law. His report stated that after the crackdown there were an increasing number of reports of deaths in custody; beatings; ill treatment; and lack of food, water, or medical treatment in overcrowded, unsanitary conditions.

In 2005 the AAPP released a report on the "brutal and systematic" torture that the government inflicted on political prisoners. Based on the testimony of 35 former political prisoners, the report gave graphic details of the physical, psychological, and sexual abuse the government employed on dissidents, and it identified by name many of the perpetrators. The report detailed the kinds of torture the government used, including severe beatings, often resulting in loss of consciousness and sometimes death; repeated electric shocks to all parts of the body, including genitals; rubbing iron rods on shins until the flesh comes off; burning with cigarettes and lighters; prolonged restriction of movement for up to several months using rope and shackles around the neck and ankles; repeatedly striking the same area of a person's body for several hours; forcing prisoners to walk or crawl on an aggregate of sharp stones, metal, and glass; using dogs to rape male prisoners; and threatening female prisoners with rape. Security officials frequently placed a hood on those accused or suspected of political crimes upon arrest. Authorities used prolonged solitary confinement to punish prisoners.

According to the AAPP report, the ministers of home affairs, defense, and foreign affairs form a three-person committee that oversees the detention of political prisoners charged under the State Protection Act. The report also indicated that during initial interrogations torture is conducted mainly by the MSA. Interrogations are also conducted by the Bureau of Special Investigations and the Special Branch (SB) of the police.

The armed forces routinely used coercive and abusive recruitment methods to procure porters. Persons forced into portering or other labor faced extremely difficult conditions, beatings, rape, lack of food and clean water, and mistreatment that at times resulted in death.

Prison and Detention Center Conditions

Prison and labor camp conditions generally were harsh and life threatening. The Department of Prisons operated approximately 35 prisons and 70 labor camps. Food, clothing, and medical supplies reportedly were scarce in prisons. There were reports that authorities in some prisons forced prisoners to pay for food. Bedding consisted of a single mat on the floor. Prisoners were forced to rely on their families, who were allowed one or two visits per month, for basic necessities. The government solicited private donations of food, clothing, and medical supplies as well as books and television sets for prisoner use but reportedly diverted all donated goods to government officials. Prisoners were held without being charged for weeks or months, and until a prisoner was officially charged with a crime, families could not visit or send critical supplementary food. HIV/AIDS infection rates in prisons reportedly were high due to communal use of syringes for injections and sexual abuse by other prisoners.

Witnesses reported thousands of persons detained in connection with September's peaceful prodemocracy demonstrations were held at makeshift detention facilities, including Plate Myot Police Center in Mandalay, the Government Technical Institute (GTI), Kyaik Ka San Interrogation Center, Police Center Number 7, Aung Tha Paye, and Riot Police Center Number 5 in Rangoon. The regime told Pinheiro that security forces took 1,930 demonstrators to the GTI between September 27 and October 15. Witnesses at the GTI estimated that well over 2,000 persons were held in a facility designed for no more than 1,500. Persons released from the GTI reported that detainees were held in overcrowded, unsanitary, degrading, and dangerous conditions. According to several eyewitnesses, few of the holding areas had adequate toilet facilities, forcing detainees to relieve themselves in plastic bags or on the floor where others slept. Female detainees reported that they were not provided with sanitary products and were forced to improvise under harsh and public conditions. Food and water were unclean and resulted in many detainees becoming sick, further exacerbating the unsanitary conditions.

In September and October there were numerous reports that several persons detained during the prodemocracy demonstrations died in custody due to poor conditions. Pinheiro cited a detained monk's eyewitness account that approximately 14 persons arrested in connection with the prodemocracy protests died while being held at the GTI between September 27 and October 5. The monk attributed their deaths to poor conditions of detention rather than injuries sustained during the protests. In October authorities informed the family of prodemocracy activist and NLD member Win Shwe that he had died in custody. Police told family members they had cremated the body

and did not allow the family to retrieve the remains. Win Shwe was arrested on September 26 near Mandalay for his alleged role in prodemocracy demonstrations. Win Shwe's family said he had a heart condition that required treatment and medication but noted they were not permitted to see him or send necessary medications while he was in custody.

The government denied prisoners adequate medical care, although medical services in prisons partially reflected the poor health care services available to the general population. In September and October the families of several detainees reported that authorities did not provide their family members with medical care to treat chronic and serious health conditions. At least two detainees who had been released confirmed that authorities denied them access to doctors and medication needed to treat life-threatening medical conditions during their detention.

Prominent political prisoners who suffered from deteriorating health included NLD members of Parliament-elect (MPs-elect) Than Nyein, May Win Myint, Naing Naing, and journalist Win Tin. The health of writer Than Win Hlaing, held in Thayarwady Prison in Bago Division, continued to deteriorate due to harsh prison conditions; however, prison authorities continued to reject his family's appeals for medical treatment. Rohingya MP-elect Kyaw Min and family also continued to experience health problems.

The Shan National League for Democracy reported that imprisoned member U Sai Hla Aung, who was suffering from high blood pressure and diabetes, had not been seen by doctors in more than three years. In December his family again asked authorities for permission to have doctors treat him but had not received a response at year's end.

Despite the government's insistence that it did not hold any political prisoners, reports by prisoners indicated that authorities frequently placed politically active prisoners in communal cells where they were subjected to beatings and severe mistreatment by common criminals.

The government continued to deny the ICRC unfettered access to prisoners. The ICRC was unable to talk in private with prisoners, make repeated visits as desired, or provide necessary healthcare and hygienic supplies. As a result, the ICRC could not follow the cases of more than 4,000 detainees, including security detainees, minors, foreigners, and prisoners who were especially vulnerable, such as the sick and elderly.

d. Arbitrary Arrest or Detention

The law does not prohibit arbitrary arrest or detention, and the government routinely used them. The law allows authorities to extend sentences after prisoners have completed their original sentence, and the government regularly used this provision.

Role of the Police and Security Apparatus

The police are auxiliary forces of the military and are under direct military command. They primarily deal with common crimes and do not handle political crimes. The Myanmar Police Force falls administratively under the Ministry of Home Affairs. Corruption and impunity were serious problems due to a government-imposed system whereby police were required to collect funds for their operations. Police typically required victims to pay substantial sums for crime investigations and routinely extorted money from the civilian population. There are no effective legal mechanisms available to investigate security force abuses. The government took no significant measures to reform the security forces.

MSA and SB police officers are responsible for detaining persons suspected of "political crimes" perceived to threaten the government. Once a person is detained, MSA officers, or in some cases SB officers, interrogate the individual for a period ranging from hours to months and can charge the person with a crime at any time during the interrogation.

The USDA increasingly assumed the responsibilities of law enforcement authorities, engaging in the arrest, detention, and interrogation of human rights and prodemocracy activists.

Arrest and Detention

By law warrants for searches and arrests are required; however, the MSA and police have special authority to conduct searches and make arrests at will. The law permits a court to detain persons without charge for up to two weeks, with the possibility of a second two-week extension. However, authorities frequently extended detentions beyond this period without producing the detainees before a judge. The government often held persons under the Emergency Act of 1950, which allows for indefinite detention. In practice many persons were held for years without being informed of the charges against them.

Bail was commonly offered in criminal cases, but it was rarely allowed for political prisoners. The government regularly refused detainees the right to consult a lawyer, denied them and their families the right to select independent legal representation, or forced them to use government-appointed lawyers. The government continued to use incommunicado detention and often failed to inform detainees' relatives of the detentions until much later.

Between August and December, the regime detained at least 3,000 persons, including many prodemocracy and human rights activists and several top opposition leaders and MPs-elect. Pinheiro estimated that between 3,000 and 4,000 persons were arrested in September and October alone. Articles in the *New Light of Myanmar* in August and October acknowledged that authorities had detained approximately 2,900 persons in connection with prodemocracy demonstrations. The August 27 issue carried an editorial accusing opposition activists of attempting to disrupt the National Convention and warning those who supported them of possible vigilante reprisals by private citizens.

On August 21, authorities detained 13 top prodemocracy leaders from the 88 Generation Students: Min Ko Naing, Ko Ko Gyi, Phone Cho, Min Zeya, Mya Aye, Jimmy, Zeya, Markee, Arnt Bwe Kyaw, Panneik Yun, Zaw Zaw Min, Thet Zaw, and Nyan Lin. Police reportedly arrested them in their homes without warrants and seized their computers and papers. The detentions closely followed an August 19 protest by the 88 Generation Students. On August 22, the regime's official newspaper carried an article stating the leaders had been arrested because of their intent to incite demonstrations and disrupt the National Convention.

On August 23, USDA members detained 16 NLD members and supporters during a procession near NLD headquarters in Rangoon. Among the protesters detained were Ko Myo Khin, Ko Kyi Phyu, Ko Aung Min Naing, Ko Tun Myint, Ko Tin Myint, Ko Tin Oo Maung, Thin Gan Gyun, Ko Phyo Min Kyin, Ko Tin Zaw Oo, Ko Law Lwin, Ko Taw Taw Aung, and Ko Ye. Witnesses, including foreign diplomatic representatives, reported that police stood by as USDA members verbally and physically abused protesters, some of them seriously, before taking them away in trucks.

On August 24, authorities in South Dagon Township in Rangoon arrested seven NLD members en route to a protest. Witnesses reported that the authorities physically and verbally abused the detainees and demanded they tell police the whereabouts of NLD member and HIV/AIDS activist Phyu Phyu Thin. Also on August 24, police and USDA members arrested 17 activists attempting to stage a protest near Rangoon's city hall. According to witnesses several of the protesters were beaten by USDA members and plainclothes police before being taken away. On the same day, police arrested human rights activist Myint Aye in his home.

On August 25, 88 Generation Students member Sandar Min was arrested in her home shortly after returning from a reception hosted by a foreign embassy. Police also seized her computer and personal effects. Also on August 25, security forces arrested prodemocracy activist and Myanmar Development Committee leader Htin Kyaw along with his supporters Zaw Nyunt, Ko Han, and Han Ti shortly after they staged a protest in Rangoon. Witnesses reported that the men were severely beaten before being taken into custody.

On August 28, police and the USDA attacked a demonstration of approximately 20 prodemocracy activists led by NLD member and labor activist Su Su Nwe. USDA members and plainclothes police beat and arrested several activists protecting Su Su Nwe.

On September 25, authorities arrested comedian and political activist Zarganar. He was held without charge until his release on October 17.

On September 26, police arrested NLD spokesman U Myint Thein, NLD member U Hla Pe, NLD Central Women's Committee Member Daw Lei Lei, MP-elect Htaung Kho Htan, and Zomi National Congress leader Pu Chin Sian Thang. They were held without charge for more than 30 days before being released on October 30. Pu Chin Sian Thang was rearrested on November 20, held without charge, and released on November 26.

On the night of September 26, soldiers and police raided at least six large monasteries in Rangoon and arrested approximately 100 monks, including Sayada Aindakaat, the leader of Maggin Monastery.

On October 13, authorities raided a private home and arrested 88 Generation Students leader Htay Kywe and four other prodemocracy activists.

On October 14, police in Sagaing Division arrested Ko Wunna Aung, Ko Ye Min Zaw, and Ko Soe Khine, all members of the NLD's youth wing. A fourth NLD member, Shwe Maung, was arrested on October 15 in Mandalay.

On November 4, the regime arrested U Gambira, a prominent monk and alleged leader of September's prodemocracy demonstrations. At year's end the regime had not formally acknowledged arresting him and or revealed what charges, if any, he faced.

On November 13, the regime arrested labor and human rights activist Su Su Nwe. She had been sought by authorities since August and had been in hiding.

On November 15, approximately 150 USDA members, local officials, and police raided a monastery in New Dagon Township in Rangoon, confiscating the monastery's funds and detaining a monk, U Sanda Wara.

On November 20, authorities arrested NLD official and MP-elect Myint Naing, 70-year-old Rakhine ethnic activist U Tin Ohn, and 60-year-old Kachin activist Khun Tu. U Tin Ohn was released on November 21; the others remained in custody at year's end.

On November 22, soldiers raided the Kachin Independence Organization's (KIO) regional offices in Dawhpum Yang Township in Kachin State and arrested six KIO soldiers and two senior officials, the latter identified by the media as Zai San and Zau Gawng.

On November 26, authorities arrested human rights activist Aung Zaw Oo at a Rangoon teashop. At year's end the regime had not acknowledged his arrest, and his whereabouts remained unknown. On November 27, police arrested prodemocracy activists Win Maw and Myat San. On November 30, authorities arrested prodemocracy activist Aung Gyi.

Approximately 1,000 persons arrested in connection with September's prodemocracy demonstrations remained in custody at year's end in addition to the estimated 1,150 political prisoners held prior to the protests. Other activists, in hiding at year's end, remained wanted by the regime.

Amnesty

In January authorities announced the release of approximately 2,830 prisoners as part of an Independence Day amnesty. While the majority of those released were incarcerated for minor common crimes, several political prisoners were released, such as MP-elect Than Htay and activists Thaug Htun, Than Win Hlaing, Soe Moe Naing, Kyaw Shwe, Kyaw Htoo, and Khin Maung Oo (also known as Saw Win).

e. Denial of Fair Public Trial

The judiciary is not independent of the government. The SPDC appoints justices to the Supreme Court, which in turn appoints lower court judges with SPDC approval. These courts adjudicate cases under decrees promulgated by the SPDC that effectively have the force of law. The court system includes courts at the township, district, state, and national levels. While separate military courts for civilians do not exist, the military regime frequently directs verdicts in politically sensitive trials of civilians.

The government continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British-era legal system remain formally in place, the court system and its operation were seriously flawed, particularly in the handling of political cases. The misuse of blanket laws--including the Emergency Provisions Act, the Unlawful Associations Act, the Habitual Offenders Act, and the Law on Safeguarding the State from the Danger of Subversive Elements--and the manipulation of the courts for political ends continued to deprive citizens of the right to a fair trial and stifle peaceful dissent. Executive Order 5/96 providing for the arrest of any person deemed a threat to the National Convention effectively stifled open debate among convention delegates and other interested citizens. Pervasive corruption further served to undermine the impartiality of the justice system.

Trial Procedures

Although the regime denied holding any political prisoners, there is a fundamental difference between criminal trials involving political prisoners and defendants charged with common crimes. Some basic due process rights, including the right to be represented by a defense attorney, are generally respected in common criminal cases but not in political cases that the government deem especially sensitive. By law the government is not obligated to provide an attorney at public expense except in death penalty cases. Juries are not used in any criminal trials. In common criminal cases, defense attorneys generally are permitted 15 days to prepare for trial, may call and cross-examine witnesses, examine evidence, and be granted a 15-day delay for case preparation. However, their primary function is not to disprove their client's guilt, which is usually a foregone conclusion, but rather to bargain with the judge to obtain the shortest possible sentence for their clients. Political trials are normally not open to family members or the public, and often defense attorneys are not permitted to attend. Reliable reports indicated that senior government authorities dictated verdicts in political cases, regardless of the evidence or the law. The law provides those convicted of crimes with a right of appeal; however, in most cases verdicts were upheld without consideration of the legal merits of the appeal.

NLD members and other prodemocracy activists generally appeared to be able to retain the counsel of lawyers without fear that the lawyers might be imprisoned; however, lawyers were not always told when trials would begin, and authorities often refused to allow them to attend their clients' trials. In December authorities removed the trials of prodemocracy activists Su Su Nwe and Htin Kyaw from a public court to specially convened closed courts in Insein Prison. Authorities did not permit their families or attorneys to attend any proceedings in the closed court or otherwise participate in their defense. Requests to hold their trials in open court were denied. Reliable reports indicated that numerous other political prisoners were tried and convicted in closed courts without the assistance of counsel.

Fourteen lawyers remained imprisoned at year's end. Most had been sentenced prior to 1998.

The government routinely extended prison sentences under the Law Safeguarding the State from the Dangers of Subversive Elements. The minister of home affairs has the right to extend unilaterally a prison sentence on six separate occasions for two months, for a total of up to one year. SPDC Chairman Senior General Than Shwe can add five years to a sentence. As in the previous year, the government did not release any prisoners being held under this law.

Political Prisoners and Detainees

At year's end there were approximately 1,400 "security detainees," including political prisoners, merchants, violators of state security laws, and those accused of fostering religious disturbances. Because the government usually charged political detainees with criminal offenses, it denied holding any political prisoners. However, according to NGOs and foreign diplomatic representatives, at year's end there were more than 2,000 political prisoners, including at least 15 MPs–elect. Despite government assertions, a vast majority of these prisoners were not believed to have engaged in any violence, theft, or other common crimes.

On July 24, Ko Myint Hlaing and Ko Myint Naing, members of the Human Rights Defenders and Promoters organization, were sentenced to eight years in prison for inciting public unrest.

On September 7, labor activists Thurein Aung, Wai Lin, Kyaw Min, and Myo Min were each sentenced to 28 years for sedition, illegal association, and immigration violations. Labor activists Nyi Nyi Zaw and Kyaw Kyaw were sentenced to 20 years for sedition.

On October 15, the regime sentenced both Kyaw Khine, the 85-year-old chairman of the Taunggok Township NLD in Rakhine State, and 75-year-old NLD member Sein Kyaw to at least four and one-half years in prison. NLD members Tun Kyi and Than Pe were each sentenced to seven and one-half years. Authorities reportedly sentenced Rakhine State NLD official Min Aung to nine and one-half years. These men were reportedly charged with violating the Emergency Provisions Act, which allows authorities to imprison those deemed to be a threat to public order and stability. The regime did not acknowledge their arrests or publicize the nature of the charges against them. All five men were convicted in closed trials.

At year's end several political prisoners arrested in 2006 remained in prison, including Win Ko, Phyo Zaw Latt, Aung Thein, Thein Oo, Aung Moe, Khaing Mar Soe, Khin Maung Win, Sai Nyunt Lwin, Hso Ten, and Sai Nyunt Lwin. Hkun Htun Oo, arrested in 2005, also remained in prison.

National Democratic Party for Human Rights MP–elect Kyaw Min, sentenced in 2005 to 47 years' imprisonment, and his wife, two daughters, and a son, all sentenced to 17 years' imprisonment on charges of having improper house registration documents, remained in prison.

NLD General Secretary Aung San Suu Kyi remained under house arrest without charge and without trial. On May 25, the SPDC again extended her detention for another year. Authorities continually denied Aung San Suu Kyi the ability to meet freely with her supporters and others at a time and place of her choosing. However, on November 9, authorities allowed Aung San Suu Kyi to meet with NLD party leaders U Nyan Win, U Aung Shwe, U Lwin, and U Nyunt Wai under the regime's supervision at a government guest house. On the same day, she met with Labor Minister and regime-appointed liaison Aung Kyi. She also was permitted to meet with UN Special Envoy Gambari at a government guest house in October and November. However, authorities denied her subsequent requests to have meetings with her supporters and did not honor their commitment for regime liaison Aung Kyi to hold regular meetings with her. The regime also continued to deny Aung San Suu Kyi's requests to meet with her legal counsel. NLD Vice–Chairman Tin Oo also remained under house arrest without trial; on February 14, authorities again extended his house arrest for one year.

Civil Judicial Procedures and Remedies

Civil judicial procedures and remedies existed in principle, but in practice there was no assurance that a complainant would receive a fair hearing.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law does not prohibit such actions, and authorities routinely infringed citizens' privacy. Through its intelligence network and administrative procedures, the government systematically monitored the travel of all citizens and closely monitored the activities of many citizens, particularly those known to be active politically.

Forced entry without a court order is legal. The law requires that any person who intends to spend the night at a place other than his registered domicile inform local Peace and Development Council authorities in advance. Any household that hosts a person not domiciled there must maintain a guest list and submit it to authorities. Ward–level officials continued unannounced nighttime checks of residences for unregistered visitors. During the political crackdown that began in August, authorities conducted intrusive, nightly searches of residences in Rangoon. Authorities in Rangoon Division continued sporadically to require households to have "family photographs" taken for government agents to use when conducting nighttime checks of residences, although reports of this practice decreased. Households subjected to this requirement were required to pay for the cost of their photographs, usually at significantly higher than market rates, and permanently display in their homes the photographs of authorized residents.

Security personnel regularly screened private correspondence, telephone calls, and e–mail.

The government continued to control and monitor closely the licensing and procurement of all two–way electronic communication devices. Possession of an unregistered telephone, facsimile machine, or computer modem is punishable by imprisonment. Users of unregistered cordless telephones face up to three years in prison and a heavy fine. Use of unregistered radios is also punishable by a fine and imprisonment.

The government continued its practice of conscripting ethnic minorities for service as military porters in Bago Division and Karen, Kachin, Kayah, and northern Rakhine states.

Government employees generally were prohibited from joining or supporting political parties; however, this proscription was applied selectively. The government used coercion and intimidation to induce persons, including nearly all public sector employees and most students, to join the government's mass mobilization organizations--the USDA, Myanmar Women's Affairs Federation (MWAFF), and Myanmar Maternal and Child Welfare Association--and attend meetings in support of the regime. The government also used coercion to entice or force members of the NLD and other opposition parties to resign, and it publicized the coerced resignations in government media.

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

Forced relocations in rural areas continued during the year. The relocations reportedly were often accompanied by rapes, executions, and demands for forced labor to build infrastructure for military units. For decades successive military governments have applied a strategy of forced relocation against ethnic minority groups in an effort to deny support to armed ethnic groups.

While less frequent than in rural areas, reports persisted of forced relocation in urban areas. The government reportedly continued to relocate forcibly some urban households for "security" reasons. In Rangoon persons were compelled to leave homes or dwellings located on property that could be used for commercial gain. In some cases those forced to move were poorly compensated, if at all.

At year's end most civil servants in the new administrative capital Nay Pyi Taw continued to live separately from their families in Rangoon, due to lack of family housing and schools in the new capital.

There were numerous reports that government troops looted and confiscated property and possessions from forcibly relocated persons or from persons who were away from their homes. These materials often were used for military construction. Diplomatic sources reported that commandeering privately owned vehicles for military or VIP transport without compensating the vehicle owners was commonplace throughout the country. The practice was particularly widespread in Shan, Kayah, and Karen states and in areas of Mon State and Bago Division.

In these same areas, thousands of civilians were displaced from their traditional villages--which often were then burned to the ground--and moved into settlements tightly controlled by SPDC troops in strategic areas. In other cases villagers driven from their homes fled into the forest, frequently in heavily mined areas, without adequate food, security, or basic medical care.

Forced relocations often generated large refugee flows to neighboring countries or to parts of the country not controlled by the government. In some areas the government replaced the original occupants with ethnic Burmans. In Karen State, army units forced or attempted to force ethnic Karen to relocate to areas controlled by the Democratic Karen Buddhist Army.

The government routinely confiscated property, cash, and food from civilians. Additionally, USDA members, acting under the cover of governmental authority, confiscated property for their own use. In July local USDA members attacked Daw San San Nwe, a farmer in Zee Phyu Gone Village, Rakhine State, and attempted to seize her farmland. She suffered facial lacerations and had the tips of two of her fingers severed. The case was reported to the local Peace and Development Council, but authorities took no action against the alleged perpetrators.

Military personnel also routinely confiscated livestock, fuel, food supplies, fishponds, alcoholic drinks, vehicles, and money. Such abuses were widespread. Regional commanders forced contributions of money, food, labor, and building materials from civilians throughout the country.

Marriages between female citizens and foreigners are banned, and the government ordered local attorneys not to be witnesses to such marriages; however, the ban was not widely enforced.

The government punished family members for alleged violations by individuals.

In August authorities detained and interrogated the brother of prodemocracy leader Htay Kywe when they were unable to locate Htay Kywe following a series of peaceful protests. The brother was released the next morning. The brother of another activist was forced by authorities to sell his transportation business at a great loss due to his sibling's activities.

On October 1, authorities arrested Khin Mar Lar. At the time the regime was seeking to arrest her husband, poet Ko Nyein Thit. Authorities held Khin Mar Lar without charge until October 21. She was not otherwise wanted or accused of having committed any crimes. Police subsequently arrested Ko Nyein Thit, who remained in custody at year's end.

On October 10, police detained the mother and mother-in-law of Thet Thet Aung, whom they sought in connection with her alleged role in September's peaceful prodemocracy protests. Authorities released her mother-in-law shortly after Thet Thet Aung was arrested on October 19 but held her mother until November 2 without charge. Neither her mother nor mother-in-law were otherwise wanted by the authorities or alleged to have committed any crimes.

On the night of October 16, security officials arrested the mother and two brothers of activist monk U Gambira in their home. Another of his brothers, Ko Aung Kyaw Kyaw, was arrested the next day as he tended to HIV patients in a Rangoon clinic. On November 4, authorities also arrested U Gambira's father. At the time authorities were seeking to arrest U Gambira for his alleged role in September's protests. His family members were held for several weeks without charges before being released. None of U Gambira's detained family members were alleged to have committed any crimes or were otherwise wanted by the authorities.

In his December report, Pinheiro stated these cases violated international law and constituted hostage taking in that they applied explicit or implicit pressure on the wanted person to come forward as a condition for releasing or not harming the hostage.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

Ethnic insurgent groups continued to battle the government for autonomy or independence, including the Shan State Army--South, the Karenni National Progressive Party, and the Karen National Union (KNU), through its armed wing, the Karen National Liberation Army. In ethnic minority regions, military personnel reportedly killed and raped civilians, shelled villages and burned homes, destroyed food and seized moveable property, confiscated land, forced villagers to work on infrastructure projects, and demanded that villagers provide food and construction materials for military camps.

There were unverified reports of deaths and injuries caused by security forces using civilians to clear landmines, particularly in Karen State, where the army continued attacks against ethnic villages.

There was an unverified report that on August 20, an armed ethnic group shot and killed KNU Lieutenant Colonel Kyi Lin in Kawkareik Township, Karen State. There were unverified reports that he had been trying to negotiate independently with the government and was killed by the KNU as a result.

There were reports of disappearances in connection with the conflicts in Bago Division and Karen, Kayah, and Shan states.

Newly arrived refugees and internally displaced persons (IDPs) near the Thai border reported that government soldiers in Chin, Shan, Kayah, Kachin, and Karen states continued to rape ethnic women and girls. The Thailand-based Karen Women's Organization cited 959 cases of women and girls in Karen State who reported sexual abuses in the past 25 years. Additionally, NGOs and international organizations continued to report numerous sexual assaults by soldiers throughout the rest of the country.

On February 2, four Kachin girls, ages 14 to 16, from a village south of Putao in northern Kachin State were gang-raped at a local military camp by three army officers and four soldiers from an infantry battalion based in Munglang Shidi, Putao District. The officers involved reportedly paid the families of the victims approximately \$232 (290,000 kyat) in compensation and warned them not to discuss the incident publicly. When word of the rape was reported in the independent media later that month, the four girls were arrested and jailed.

On June 26, soldiers in Thapaung Township, Irrawaddy Division, reportedly raped and killed a 20-year-old woman. Witnesses reported that at least five soldiers, including one officer, participated in the assault. The family reported the incident to local police, but authorities took no action to investigate the case.

Karen NGO sources indicated that human rights abuses continued in Karen State, despite intermittent peace talks. On May 11, soldiers from the 11th Light Infantry Division attacked the village of Htee Nya Mu Kee. Witnesses reported that soldiers burned a stockpile of rice and forced 107 villagers to abandon their homes.

On May 13, approximately 30 soldiers from the 88th Light Infantry Division attacked the village of Yaw Ki in Karen State with small arms and mortar fire. During the attack soldiers shot and killed Saw Ra Say and reportedly burned four farm huts.

On May 17, soldiers from Taw Lu Pla Man in Karen State attacked the village of Klaw Kloe Lo. Witnesses reported that troops shot and killed Naw Ku Lue and burned her body. Soldiers also reportedly burned seven houses and a large stockpile of rice. Also in May soldiers raped and killed two women in the village of Takehder in Luthaw

Township, Karen State. According to reports, the women had been gathering vegetables when they were captured by troops from Military Operations Command 5.

On June 23, troops from the 203rd and 284th Battalions based in Htee K'bler captured and killed five family members from the village of Htee K'bler in Dooplaya District, Karen State. Witnesses reported that the victims were Saw Nying Htun, Naw Wah Kyung, Saw Pa Heh Soe, Kyaw Eh Wah, and Naw Pler Poe.

Numerous Karen villages were attacked and burned, forcing hundreds of villagers to flee into the jungle with limited supplies. The army continued to embargo food supplies moving beyond Mile 13 of the highway east of Taungoo Township.

Military forces continued to abuse thousands of villagers and drive them from their homes, particularly during campaigns in Bago Division and Karen, Kayah, and Shan states. Thai-based NGOs reported that approximately 25,000 ethnic Karen became IDPs during the year.

There were no reports that the government investigated or otherwise attempted to identify and punish those responsible for numerous acts of killing, injury, and destruction committed against Karen communities during the year.

According to the Office of the UN High Commissioner for Refugees (UNHCR), approximately 150,000 Burmese refugees lived in camps in Thailand. The regime did not allow the UNHCR to fully monitor the potential areas of return to assess conditions for the voluntary return of the refugees and IDPs, leading the UNHCR to determine that conditions remained unsuitable for their return.

Approximately 21,000 Rohingyas lived in refugee camps in southeastern Bangladesh, and it was estimated that as many as 200,000 others lived outside the camps.

In her November 16 report on the use of child soldiers in Burma, UN Special Representative for Children and Armed Conflict Coomaraswamy cited evidence that the both the government army and several armed insurgent and cease-fire groups, including the United Wa State Army, Kachin Independence Army, Karenni National People's Liberation Front, Democratic Karen Buddhist Army, Shan State Army-South, Myanmar National Democratic Alliance Army, and Karen National Union Peace Council, recruited child soldiers.

Coomaraswamy's report stated that, despite the government's official policy of prohibiting the recruitment of children under the age of 18, there was enormous pressure to increase army recruitment rates, which led to a pattern of underage recruitment into the military. The report stated that often children were lured into joining with promises of food and shelter. Some children were recruited from the street from brokers who received up to approximately \$32 (40,000 kyat) for each recruit, while others were reportedly detained by the police and offered the choice of joining the army or going to jail. Coomaraswamy also cited the practice of "prerecruitment," in which underage children were taken to army bases and used in noncombatant capacities until they reached the age of majority and were enlisted. Age verification remained a significant problem, since many children did not have reliable proof of age.

According to Coomaraswamy's report, children can join the Wa State Army and work in noncombatant positions at the age of 12 and serve in combatant positions at age 15. She cited credible reports of uniformed and armed children in the Wa State Army, including witnesses who reported children as young as nine under arms.

Coomaraswamy cited reports of a Kachin Independence Army (KIA) policy mandating that each family contribute one child for military service regardless of age. She recounted a report that early in the year, KIA recruited a 15-year-old girl when she returned home from her school in Myitkyina, Kachin State. The girl's family had not yet contributed a child to the KIA, and neither of her siblings was living in the village. At year's end the girl remained in KIA custody.

Coomaraswamy stated that the Karenni National People's Liberation Front had a reputation for having many children in its ranks. Her report stated that children had reportedly been used to search for landmines laid by other armed groups, but she acknowledged difficulty in verifying these reports in detail. She also stated that the UN had received credible reports indicating the presence of uniformed and armed children in and near Democratic Karen Buddhist Army camps.

According to Coomaraswamy, the UN received reports of frequent sightings of children being forcibly taken and used by armed groups in Shan State, including the Myanmar National Democratic Alliance Army and Shan State Army-South. She also cited reports from several sources indicating that the Karen National Union Peace Council, a breakaway faction of the KNU active in Karen State, had recruited children from a refugee camp and villages in the border areas early in the year.

Coomaraswamy's report stated that the UN did not receive any reports during the year of recruitment or use of children by the Karen National Union or Karen National Liberation Army, Karenni National Progressive Party, or Karenni Army.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law does not provide for freedom of speech and of the press, and the government continued to restrict these rights severely and systematically. The government arrested, detained, convicted, and imprisoned citizens for expressing political opinions critical of the government and for distributing or possessing publications in which opposition opinions were expressed. Security services also monitored and harassed persons believed to hold antigovernment opinions.

The government continued to use force to prohibit all public speech critical of the regime by all persons, including by persons elected to parliament in 1990 and leaders of political parties. The government pursued this policy consistently with few exceptions.

On May 25, approximately 50 USDA members surrounded a group of 30 NLD members at a Rangoon pagoda assembled to pray for Aung San Suu Kyi's release. The USDA members attempted to drown out the NLD members' prayers by shouting and physically assaulting some NLD members as they departed the pagoda.

In June NLD member Aung Than and Zeya Aung, a student at Pegu University, were sentenced to 19 years in prison for having written and distributed a collection of poems entitled "Daung Man," ("The Power of the Peacock"), a reference to the NLD.

Between August and October, the government arrested at least 3,000 persons participating in peaceful prodemocracy demonstrations.

The government controlled content in all print publications and owned and controlled all domestic radio and television broadcasting facilities. The official media remained propaganda organs of the government and did not report opposing views except to criticize them.

Privately owned media existed, but the government's Press Scrutiny Board tightly controlled all media and publications and took action against any attempt to provide independent interpretation or comment on news. The Ministry of Information issued licenses to private media publishers as long as the media printed government-approved material. An estimated one-third of private media licenses were held by government agents or supporters.

A few foreign news agencies remained but had no expatriates based in the country and relied on local journalists. Their bureau chiefs were rarely permitted to enter on journalist visas.

Due to widespread poverty, limited literacy, and poor infrastructure, radio and television remained the primary media of mass communication. News periodicals rarely

circulated outside urban areas. The government continued to monopolize and control the content of the two domestic radio stations. Foreign radio broadcasts, such as those of Radio Free Asia, the Voice of America, the BBC, and the Democratic Voice of Burma, remained the principal sources of uncensored information.

The government continued to monopolize and control all domestic television broadcasting tightly, offering only three channels, including an armed forces channel. The general population was allowed to register satellite television receivers for a fee. Illegal satellite television was also available, but access to satellite television remained far beyond the reach of the majority of the population.

Reporters were subject to arrest, harassment, intimidation, and violence by the authorities and supporters of the regime. In March journalists Thaug Sein and Ko Moe Htun of the religious magazine *Dharmah-Yate* were arrested for taking unauthorized photos of the new capital Nay Pyi Taw and sentenced to three years in prison.

On August 23, USDA members verbally and physically threatened a local reporter for an international wire service while he was trying to cover a procession by NLD members in Rangoon. Before chasing him from the scene, USDA members told the reporter that he had been warned not to cover such events and would be beaten if he did not leave immediately.

Many prominent writers and journalists remained in prison for expressing their political views. Reporters Without Borders reported that as of January 1, at least seven journalists remained in prison, including 76-year-old Win Tin, in prison since 1989. He had reportedly suffered two heart attacks in prison and required treatment for high blood pressure and an inflamed prostate. Myat Swe (Sunny Swe) and his father Thein Swe, co-owners of the English- and Burmese-language weekly newspaper *Myanmar Times*; [Thaug Tun](#); [Than Win Hlaing](#); [Monywa Aung-Shin](#); and [Ne Min](#) also remained in prison. Government censorship boards prohibited publication or distribution of works authored by those in prison.

There were no reports that any imprisoned journalists were released during the year.

All privately owned publications remained subject to prepublication censorship by state censorship boards. Due in part to the time required to obtain the approval of the censors, private news periodicals generally were published weekly.

The government forced private periodicals to publish articles and photographs criticizing foreign diplomats for visiting NLD headquarters and meeting with student leaders. Government controls encouraged self-censorship, and publications generally did not report domestic political news or sensitive economic and political topics.

Imported publications remained subject to predistribution censorship by state censorship boards, and possession of publications not approved by the state censorship boards was a serious offense. The government also restricted the legal importation of foreign news periodicals and discouraged subscriptions to foreign periodicals; however, some foreign newspapers could be purchased in Rangoon. Some foreign newspapers and magazines were distributed uncensored.

The government generally issued few visas to foreign journalists. Journalists reported that, unlike in the previous year, the government did not permit foreign journalists to enter the country to cover the National Convention and revoked the visas of several journalists at the last minute. Foreign media reported that a news conference and orientation program of the convention scheduled for July was abruptly canceled without explanation.

The law makes it a criminal offense to publish, distribute, or possess a videotape not approved by a state censorship board. The government continued to crack down on uncensored foreign videotapes and digital video discs, although pirated copies remained widely available on the street.

Internet Freedom

No laws or regulations exist regarding monitoring Internet communications or establishing penalties for the exercise of freedom of expression via the Internet. However, the government monitored Internet communications and blocked Web sites so that individuals could not freely engage in such activities.

Authorities frequently blocked access to Web sites that attracted many users or large attachments related to political issues. E-mail messages sometimes took several days to arrive in a receiver's inbox, often with attachments deleted. Citizens believed this was due to the regime's censoring of incoming and outgoing e-mail.

The government banned all Web sites critical of the regime and its activities. Authorities also periodically banned all access to free e-mail services such as Yahoo and Hotmail, as well as Internet telephone and messaging services offered by Gmail, Gtalk, and Skype.

The government blocked most Web sites containing words that it considered suspicious, such as Burma, drugs, military government, democracy, student movement, 8888, and human rights. Users could sometimes reach the home pages of the Democratic Voice of Burma and BBC's Burma service, but they could not access most articles on the sites. Occasionally the government mistakenly blocked educational or other sites when its software detected censored words.

There were no reports of anyone being charged with a crime for expressing political, religious, or dissenting views in electronic fora, including e-mail. However, the government reportedly often charged persons suspected of expressing political, religious, or dissenting views in electronic fora with other crimes.

In its annual report, Reporters Without Borders stated that the government closely monitored Internet cafes, at which many computers automatically executed screen captures every five minutes to monitor a user's activity. All Internet cafes displayed a notice that forbade users to access political and pornographic sites but did not state a specific punishment.

Academic Freedom and Cultural Events

The government restricted academic freedom. University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. The Ministry of Education routinely warned teachers against criticizing the government. It also instructed them not to discuss politics at work, prohibited them from joining or supporting political parties or from engaging in political activity, and required them to obtain advance approval for meetings with foreigners. The government closely monitored curricula, censored course content, and intimidated academics to practice self-censorship. Like all state employees, professors and teachers were required to join the USDA. Teachers at all levels continued to be held responsible for the political activities of their students. Parents of school-age children reported that in November authorities ordered teachers at several Rangoon high schools to fail any students who did not attend progovernment rallies organized by the regime and its supporters. Foreigners were not permitted to visit university campuses without prior approval or attend any meetings involving students, including graduation ceremonies.

To limit the possibility of student unrest, the government placed undergraduate campuses in remote areas, warned teachers and students that disturbances would be dealt with severely, and kept most on-campus dormitories closed. The government placed heavy security around schools, even during summer vacation. These measures caused the quality of education to deteriorate to such an extent that many students opted to use self-study or private tutoring.

The government tightly controlled the limited number of private academic institutions and their curricula. Similar controls extended to Buddhist monastery-based schools, Christian seminaries, and Muslim madrassas. During the year the government cracked down on private classes and tried to ban the practice. Aung Pe, a private teacher

and NLD supporter, remained in prison, reportedly in poor health, serving a three-year sentence for alleged violation in 2005 of the Private Tuition Act.

The government strictly monitored and censored all cultural events. Authorities routinely harassed and questioned members of the Myanmar Debate Society regarding their organization's activities. In June members of the society were denied permission to travel abroad for a debate tournament and had their passports confiscated.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law limits freedom of assembly, and the government severely restricted it in practice. An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although it was not enforced consistently and authorities sometimes prohibited smaller gatherings. All NLD offices except its Rangoon headquarters remained closed by government order, and the NLD could not conduct party activities outside its headquarters building. The nine other legally registered political parties were required to request permission from the government to hold meetings of their members. Informal meetings involving NLD members occurred outside the NLD office, such as regular Tuesday visits by a women's group to Rangoon's Shwedagon Pagoda; however, security officials closely monitored these activities. Authorities occasionally demanded that NLD leaders provide them with lists of attendees in advance in an attempt to discourage participation.

The government at times interfered with the assembly of religious groups. Beginning in 2004 a group of Buddhist laypersons known as the Tuesday Prayer Group attempted to gather every Tuesday to pray for the release of Aung San Suu Kyi. On January 16, USDA members verbally and physically attacked the group and its leader, Naw Ohn Hla, as they tried to enter Rangoon's Shwedagon Pagoda. Witnesses observed approximately 100 men in plain clothes surround Naw Ohn Hla and demand that she and the other prayer group members depart immediately. When they did not depart, witnesses reported that USDA members hit and kicked several of the members, both men and women. Uniformed police at the scene did not try to stop the attack, and authorities did not investigate the incident or pursue a complaint filed by Naw Ohn Hla.

Freedom of Association

The government restricted freedom of association, particularly for NLD members, prodemocracy supporters, and those who contacted exile groups. On September 7, six labor activists arrested in connection with a May 1 seminar in Rangoon were sentenced to prison terms of between 20 and 28 years for sedition and violations of the illegal associations statute.

At year's end NLD member Hla Myint Than and eight others, convicted in 2005 for contact with an "illegal organization," possession of a satellite telephone, and illegal travel to Thailand, remained in prison under sentences of eight to 25 years.

Freedom of association generally existed only for government-approved organizations, including trade associations, professional bodies, and the USDA. Few secular, nonprofit organizations existed, and those that did took special care to act in accordance with government policy. There were 10 legally registered political parties, but most were moribund. Authorities harassed and intimidated three of the opposition parties. The seven other legal parties supported regime policies in return for more favorable treatment.

c. Freedom of Religion

Constitutional support for religious freedom does not exist. There is no official state religion; however, the government continued to show preference for Theravada Buddhism, the majority religion. The Ministry of Religious Affairs has a separate department for the "promotion and propagation of Sasana" (Buddhism). The government promoted education at Buddhist monastic schools in rural areas and subsidized Buddhist universities in Rangoon and Mandalay. Most adherents of registered religious groups generally were free to worship as they chose; however, the government imposed restrictions on certain religious activities and promoted Buddhism over other religions. The government also prohibited efforts by Buddhist clergy to promote human rights and political freedom.

Virtually all organizations, religious or otherwise, must register with the government. Although an official directive exempts "genuine" religious organizations from registration, in practice only registered organizations were allowed to buy or sell property or open bank accounts. Consequently, most religious organizations registered with the government.

The government continued its efforts to control the Buddhist clergy (Sangha). It tried Sangha members for "activities inconsistent with and detrimental to Buddhism" and imposed on the Sangha a code of conduct enforced by criminal penalties. The government did not hesitate to arrest and imprison lower-level Buddhist monks who opposed the government. In prison monks were defrocked and treated as laypersons. In general they were not allowed to shave their heads and were not given food in accordance with the monastic code. Like other political prisoners, they were often beaten and forced to do hard labor. The government also subjected the Sangha to special restrictions on freedom of expression and association. Members of the Sangha were not allowed to preach sermons pertaining to politics. Religious lectures could not contain any words, phrases, or stories reflecting political views. The regime told Sangha members to distance themselves from politics, political parties, or members of political parties. The government prohibited any organization of the Sangha other than the nine state-recognized monastic orders under the authority of the State Clergy Coordination Committee. The government prohibited all religious clergy from being members of a political party.

In September the regime violently suppressed peaceful demonstrations led by Buddhist monks. The AAPP estimated that security forces raided at least 52 monasteries between September 26 and year's end in response to the peaceful prodemocracy demonstrations. International NGOs estimated that at least 150 monks were arrested between September and October, although at year's end many more monks were reportedly missing from their monasteries.

On September 5, authorities fired warning shots to disperse a peaceful procession of approximately 300 Buddhist monks in Magwe Division. Witnesses reported the monks were collecting alms and chanting for peace and an end to oppression. Three monks were detained but released later that day.

Beginning on September 26, security forces conducted nighttime raids on monasteries throughout the country as part of the regime's suppression of the monk-led protests. Opposition activists and members of the clergy reported soldiers forcibly entered the monasteries at night and deployed tear gas, fired rubber bullets, and beat monks with batons and bamboo sticks.

At 2:00 a.m. on September 27, security forces raided the Ngwe Kyar Yan monastery in Rangoon. Witnesses reported that police and soldiers beat monks and destroyed property. Approximately 70 monks were taken away. Cash, jewelry, and other valuables were also reported missing following the raid. An official from the Religious Affairs Department returned later in the day to demand that the remaining monks clean up evidence of the raid and relocate to another monastery. When the monks refused and local residents gathered to support them, soldiers and police returned and fired live ammunition to disperse the crowd. Witnesses told journalists that at least two men were killed by the gunfire, including 18-year-old Zayar Naing Oo.

Similar raids were reported at Kyaik Ka San, Moe Kaung, and Mahar Bawdi monasteries.

In late September and early October, foreign diplomatic representatives and members of the media visited several local monasteries and found many damaged and nearly empty. On September 28, journalists and foreign diplomatic representatives visited Ngwe Kyar Yan monastery in Rangoon and found bamboo batons, riot control munitions, broken windows, and pools of blood on the floor of the monastery's dormitory.

The government continued to restrict the building of religious structures by minority religious groups. The government also permitted the destruction of religious centers

and schools.

The government's border security force continued to conduct arbitrary "inspections" of mosques in northern Rakhine State, demanding that mosque officials show permits to operate the mosques. When mosque officials could not produce the permits, officials ordered congregation members to destroy the mosques.

In most regions of the country, Christian and Muslim groups that sought to build small churches or mosques on side streets or other inconspicuous locations occasionally were able to proceed, but based only on informal approval from local authorities. These groups reported that formal requests encountered long delays, generally were denied, and could be reversed by a more senior authority.

The government's pervasive internal security apparatus imposed de facto restrictions on collective and individual worship through its infiltration and monitoring of meetings and activities of virtually all organizations, including religious ones. Religious activities and organizations were subject to restrictions on freedom of expression and association.

Although authorities appear to have moved away from a campaign of forced conversion, there continued to be evidence that other means were used to entice non-Buddhists to convert to Buddhism. Christian Chins were pressured to attend Buddhist seminaries and monasteries and encouraged to convert to Buddhism. Christian Chins reported that local authorities operated a high school that only Buddhist students could attend and promised government jobs to the graduates. Christians had to convert to Buddhism to attend. An exile Chin human rights group claimed that local government officials placed the children of Chin Christians in Buddhist monasteries, where they were given religious instruction and converted to Buddhism without their parents' knowledge or consent. Reports suggested that the government also sought to induce members of the Naga ethnic group in Sagaing Division to convert to Buddhism by similar means.

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

Buddhist doctrine remained part of the state-mandated curriculum in all government elementary schools. Students could opt out of instruction in Buddhism, and some did, but students of government schools were required to recite a Buddhist prayer daily. Some Muslim students were allowed to leave the room during this act, while at some schools non-Buddhists were forced to recite the prayer.

Citizens and permanent residents of the country were required to carry government-issued national registration cards that often indicated religious affiliation and ethnicity. There appeared to be no consistent criteria governing whether a person's religion was indicated on the identification card. Citizens also were required to indicate their religion on certain official application forms, such as for passports.

The government allowed some Muslims to go on the annual hajj and Buddhists to go on pilgrimage to Bodhgaya, India, although it limited the number of pilgrims. An estimated 2,500 Muslims went on the hajj in the year, 500 fewer than in 2006. Approximately 300 went on government-sponsored trips. Only 180 ethnic Rohingya residing in Rakhine State were able to go on the hajj, due to difficulty in obtaining passports and exit permission from the regime. As in 2006, an estimated 2,000 to 2,500 Buddhists made pilgrimages to Bodhgaya.

Societal Abuses and Discrimination

In contrast with 2006, there were no reports of conflicts between Muslims and Buddhists in Magway Division. While official religious discrimination was limited, de facto preferences for Buddhists remained. There was one synagogue in Rangoon that served a Jewish congregation of eight local families. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

Although the government restricted freedom of movement, most citizens were able to travel within the country. Exceptions included Muslims traveling to, from, and within Rakhine State, as well as some opposition political party members. However, citizens' movements were closely monitored, and all were required to notify local officials of their whereabouts. Movement was restricted in areas of armed conflict. Citizens were subjected to arbitrary relocation. Authorities prohibited NLD members who traveled to Rangoon to attend party functions from lodging in the city overnight.

The government maintained close control over most ethnic leaders' movements, requiring them to seek permission from the government before making any domestic trips.

Ethnic minority areas previously affected by conflict, such as the large Karen areas of Ayeyarwady, continued to experience tight controls on personal movement, including frequent military checkpoints and monitoring by the MSA. Bribes were extracted at checkpoints in border areas.

In Rakhine State many controls and checkpoints applied only to the Muslim population. The government tightly controlled the movement of Muslim Rohingyas, particularly in Buthidaung, Kyauktaw, Maungdaw, and Rathedaung townships along the border between Rakhine and Bangladesh. Muslim youth from Rakhine accepted to universities and medical schools outside the state were unable to enroll due to travel restrictions imposed upon them. The government also required other noncitizens, primarily ethnic South Asians and Chinese, to obtain prior permission to travel internally. Nonetheless, the country's borders with China, Thailand, Bangladesh, and India remained very porous, with significant undocumented migration and commercial travel occurring.

An ordinary citizen needed three documents to travel outside the country: a passport from the Ministry of Home Affairs, a revenue clearance from the Ministry of Finance and Revenue, and a departure form from the Ministry of Immigration and Population. To address the problem of trafficking in persons, the government continued to hinder or restrict international travel for women, particularly those under 25 years of age.

The government carefully scrutinized prospective travel abroad for all passport holders. Rigorous control of passport and exit visa issuance perpetuated rampant corruption, as applicants were forced to pay bribes of up to \$230 (300,000 kyat), approximately equivalent to the average annual salary of a skilled worker. The government regularly denied passports on political grounds. College graduates who obtained a passport (except for certain government employees) were required to reimburse the government for the cost of their education. It frequently took several months to receive a passport, particularly if the applicant was unwilling to offer a bribe as incentive for speedier service.

On March 5, a student was arrested at Rangoon International Airport while en route to an exchange program sponsored by a foreign government. The student was held for more than one month and was not permitted to travel abroad to participate in the program.

The government permitted foreign diplomats and foreign UN employees based in Rangoon to travel outside of Rangoon to designated tourist sites without prior permission; all other travel required advance permission and was regularly denied. The government required all foreign and local residents, except diplomats, to apply for authorization to leave the country.

Restrictions on nonresident foreigners' travel to some areas of the country were relaxed during the year. However, certain categories of applicants, including human rights advocates, journalists, diplomats, and political figures, were regularly denied entry visas unless they were traveling under the aegis of a sponsor acceptable to the government and for purposes approved by the government.

The abrogated 1974 constitution did not provide for forced exile, and the government generally did not use it.

Citizens who emigrated legally generally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return.

The government did not have legal arrangements to accept its citizens deported from other countries; however, in the past the government accepted the return of several thousand illegal migrants from Thailand and China.

Harassment, fear of repression, and deteriorating socioeconomic conditions continued to force many citizens to leave for neighboring countries and beyond. In border regions populated by minority ethnic and religious groups, the government maintained its practices of forced labor, confiscation of land, compulsory contributions of food and money, and forced relocations. These policies continued to produce large numbers of refugees in neighboring countries, particularly Thailand, India, Malaysia, and Bangladesh.

Internally Displaced Persons (IDPs)

According to the International Displacement Monitoring Center, there were at least 500,000 IDPs in the country at year's end, although precise figures were difficult to determine due to poor access to affected areas. The center reported that the government forcibly relocated 3,077 villages between 1996 and 2006 and displaced an average of 81,500 persons a year between 2002 and 2006. The government provided little or no protection or assistance to IDPs, many of whom were forcibly resettled under dangerous conditions. IDPs did not have unfettered access to domestic and international humanitarian organizations, although the UNHCR had limited access to IDPs in northern Rakhine State. Humanitarian organizations were denied access to many IDPs in eastern regions along the Thai border on security grounds. IDPs in these areas regularly were caught in the crossfire between government army and insurgent groups, according to credible observers along the border. In addition, IDP women frequently suffered rape, according to these observers.

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. The government did not grant refugee status or asylum; however, there were no reports that persons formally sought asylum in the country during the year, nor were there reports of forced repatriation.

The UNHCR continued to negotiate for permission to work with "communities that are affected by displacement." The government allowed the UNHCR to provide humanitarian assistance to Rohingyas in northern Rakhine State, whom the government does not recognize as citizens.

In August the UNHCR signed a two-year memorandum of understanding (MOU) with the Ministry of Border Affairs that permitted the UNHCR to work with implementing partners in the southeast region, including parts of Karen and Mon states and Tanintharyi Division, to which the UNHCR had previously been denied access. Under the MOU, UNHCR foreign personnel also were permitted to monitor their project activities in the region.

Stateless Persons

According to the UNHCR, there were approximately 800,000 legally stateless persons residing in the country. Only persons who were able to prove long familial links to the country were accorded full citizenship. Most stateless persons were from the Muslim Rohingya ethnic minority in northern Rakhine State near the border with Bangladesh. The government denied citizenship to most Rohingyas on the grounds that their ancestors did not reside in the country for one year prior to the start of British colonial rule in 1824, as required by the highly restrictive citizenship law.

Native-born but nonindigenous ethnic populations such as Chinese, Indians, Bengalis, and some Eurasians were denied the full benefits of citizenship based on their nonindigenous ancestry.

Persons without full citizenship faced restrictions in domestic travel. They were barred from certain advanced university programs in medicine and technological fields and excluded from government positions.

Rohingyas experienced severe legal, economic, and social discrimination. The government required them to receive approval for all travel outside northern Rakhine State. Rohingyas had extremely limited access to higher education and could not work as civil servants, including service as doctors, nurses, or teachers. Access to medical care was extremely limited. Rohingyas did not have access to state-operated schools beyond primary education, nor did they have the right to vote.

The government continued a UNHCR-administered program that issued temporary identification cards to stateless persons in northern Rakhine State. At year's end the UNHCR estimated that approximately 400,000 stateless persons possessed temporary identification cards.

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

The regime continued its systematic use of coercion and intimidation to deny citizens the right to change their government. The 1947 constitution contained a clause that gave citizens the right to recall elected MPs. The 1974 constitution contains a similar clause, but there was no record that this clause was ever exercised. The SPDC continued to prevent the parliament elected in 1990 from convening.

Since 1962 active-duty military officers have occupied the most important positions in the central government and in local governments, and the SPDC placed active duty or retired military officers in senior-level positions in almost every ministry. At year's end active-duty or retired military officers occupied 30 of 33 ministerial-level posts, including that of prime minister and the mayoral posts in Rangoon, Mandalay, and the new administrative capital, Nay Pyi Taw.

Elections and Political Participation

In the most recent parliamentary elections, held in 1990, the NLD won a majority of seats. However, the military regime refused to implement the election results and disqualified, detained, or imprisoned many successful candidates.

The government outlawed the existence of all but 10 political parties and routinely harassed members of the few legal opposition parties. The NLD continued to press for substantive dialogue on political reform and publicly voiced criticisms of the policies and actions of the government, including the jailing of dissidents. However, the government refused to engage in dialogue with the NLD and continued its systematic campaign to destroy the NLD. At year's end 12 MPs-elect remained in prison for political reasons, some since the early 1990s.

On July 28, the regime reconvened the National Convention, first summoned in 1993 and in recess since December 29, 2006. The convention is part of the government's seven-step "road map" to adopt a new constitution. The regime convened the convention with more than 1,000 handpicked delegates, including representatives from 17 ethnic cease-fire groups. However, it prohibited free debate on the drafting of a new constitution and threatened to imprison persons for periods of five to 20 years for any criticism of the process. The convention concluded its final session on September 3. Shortly after the conclusion of the final session, the government released a list of 104 principles approved by the convention delegates to guide the drafting of the constitution. On October 18, the regime appointed a 54-person constitutional drafting committee; the committee held its first meeting on December 3 and continued to meet at year's end.

Due to the limitations on open debate, the NLD decided in 1995 not to participate in the convention, and the authorities did not invite NLD members to join subsequent convocations.

Women were excluded from political leadership. Members of certain minority groups also were denied a role in government and politics. There were no female or ethnic minority members of the SPDC, cabinet, or Supreme Court.

Government Corruption and Transparency

The law provides for criminal penalties for official corruption; however, the government rarely and inconsistently enforced the anticorruption statute, and officials frequently engaged in corrupt practices with impunity. A complex and capricious regulatory environment fostered corruption. Authorities usually enforced anticorruption laws only when the regime's senior generals wanted to take action against officials whose egregious corruption had become an embarrassment or when they wanted to punish officials deemed a threat to the senior generals' power.

The government did not provide access to most official documents, nor is there a law allowing for it. Most government data, even routine economic statistics, were classified or tightly controlled. Government policymaking was not transparent, with decision-making confined to the top layers of government, and new government policies rarely were published or explained openly.

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

The government did not allow domestic human rights organizations to function independently, and it remained hostile to outside scrutiny of its human rights record. On November 2, the Ministry of Foreign Affairs informed the diplomatic corps that the regime was expelling the UN resident coordinator in response to his statement on UN Day, in which he pointed out the deteriorating economic situation and called on the government to address the political, economic, humanitarian, and human rights problems facing the country.

Approximately 35 nonpolitical, international humanitarian NGOs operated in the country. A few others had a provisional presence while undertaking the protracted negotiations necessary to establish permanent operations in the country. Many international humanitarian NGOs and UN agencies reported increasing government pressure to curtail their activities, and access to human rights activists, prisoners, and ethnic minorities by international personnel became more difficult.

UN agencies and NGOs continued to negotiate with the government to agree on mutually acceptable guidelines for the activities of humanitarian organizations. The Burmese-language version of the guidelines, released in February 2006, contained measures that were more restrictive than those in the English-language version.

The government maintained travel restrictions on foreign journalists, NGO staff, UN agency staff, and diplomats in most regions. Human rights advocates regularly were denied entry visas unless traveling under the aegis of a sponsor acceptable to the government and for purposes approved by the government. The government's monitoring of the movements of foreigners, its frequent interrogation of citizens concerning contacts with foreigners, its restrictions on the freedom of expression and association of citizens, and its practice of arresting citizens who passed information about government human rights abuses to foreigners impeded efforts to collect or investigate human rights abuses. Reports of abuses, especially those committed in prisons or ethnic minority areas, often emerged months or years after the abuses allegedly were committed and seldom could be verified.

Some international NGOs and UN agencies were required to have a government representative accompany them on field visits, at the NGOs' or UN's expense, although this rule was not consistently enforced. Foreign staff experienced difficulty obtaining permission to travel to project sites.

On May 22, the UN Secretary-General appointed Ibrahim Gambari as UN envoy to Burma. Gambari visited the country in October and November. However, on both occasions the regime refused to allow him to control his own schedule, insisting instead on dictating his meetings and restricting him to the new capital and the government guesthouse in Rangoon.

UN Special Rapporteur Paulo Sergio Pinheiro conducted an official mission to the country November 11-15 to investigate allegations that the regime committed numerous human rights violations during its response to the prodemocracy demonstrations of August and September. During his visit he met with government officials, foreign diplomatic representatives, members of the UN country team, representatives from international NGOs, representatives from national ethnic groups, representatives of women's development associations, monks, and five detainees--Su Su Nwe, Win Tin, Min Zeya, Maung Kan, and Than Tin. He was not permitted to meet with any military commanders. He was allowed to conduct supervised visits to Insein Prison, the detention facilities at GTI and Number 7 Police Battalion Control Command Headquarters, the Htain Bon crematorium, and Nan Oo and Ngwe Kyar Yan monasteries. On December 7, Pinheiro released a report describing his findings, including incidents involving the use of excessive and lethal force, arbitrary arrest and detention, deaths in custody and torture, and severe reprisals against peaceful protestors. He also provided recommendations for immediate and transitional measures addressed to the government.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The SPDC continued to rule by decree and was not bound by any constitutional or statutory provisions concerning discrimination based on race, gender, disability, language, or social status.

Women

Rape is illegal, but the government did not enforce the law effectively. If the victim is under 14 years of age, the act is considered rape with or without consent. In such cases the maximum sentence is two years when the victim is between ages 12 and 14, and 10 years to life imprisonment when the victim is under 12. Spousal rape is not a crime unless the wife is under 14.

The government did not release statistics regarding rape; however, it stated that rape was not common in populous urban areas but occurred more often in remote areas. Nonetheless, it was generally considered unsafe for women to travel at night without a male escort, and employers typically had to supply a bus or truck to return female workers to their homes at night. Use of taxis at night was considered particularly hazardous for women because of the risk of rape or robbery. Prostitutes traveling at night typically had to pay substantial additional fees to taxi operators or risk being raped, robbed, or turned over to the police. There were credible reports that prostitutes taken into police custody were sometimes raped or robbed by the police. Incidents of rape in conflict areas and other ethnic minority areas continued, particularly by military personnel garrisoned in those regions. Authorities rarely, if ever, took action against government officials accused of rape. Occasionally, authorities would arrest and prosecute women who reported being raped by police or soldiers. The regime did not release any statistics concerning the number of rape prosecutions and convictions.

Domestic violence against women, including spousal abuse, remained a problem; however, because the government did not maintain statistics related to spousal abuse or domestic violence, it was difficult to measure. There are no laws specifically against domestic violence or spousal abuse, although there are laws related to committing

bodily harm against another person. The related prison terms range from one year to life, in addition to possible fines. The government-affiliated MAAF sometimes lobbied local authorities, including the police, to investigate domestic violence cases involving spousal abuse. Since the MAAF is controlled by wives of regime leaders, police usually investigated such cases referred to them by the group.

Prostitution is prohibited by law and punishable by three years in prison; however, its prevalence grew in urban areas, particularly in some of Rangoon's "border towns" and "new towns," populated chiefly by poor families who were relocated forcibly from older areas of the capital.

There are no laws against sexual harassment, which continued to be a problem.

Women remained underrepresented in most traditionally male occupations and were effectively barred from certain professions, including the military officer corps. Poverty affected women disproportionately. Women did not receive equal pay for equal work on a consistent basis. Women legally are entitled to receive up to 26 weeks of maternity benefits, but in practice these benefits often were not accorded them.

There were no independent women's rights organizations, although there were several groups with some relationship to the government. The MAAF, chaired by the wife of former prime minister General Soe Win, was the leading "nongovernmental" women's rights organization. With branches in all 14 states and divisions, it was the primary government organization responsible for addressing women's interests. The Myanmar Maternal and Child Welfare Association, another government-controlled agency, provided assistance to mothers and children. These organizations were closely allied with the government and conducted activities that furthered government objectives. The Myanmar Women Entrepreneurs' Association, a professional society for businesswomen, provided loans to women starting new businesses. While not controlled by the government, the association enjoyed good relations with the government and was allowed to conduct its activities to support women in business.

Children

Children were at high risk, as deteriorating economic conditions forced destitute parents to take them out of school to work in factories and teashops or to beg. Many were placed in orphanages. With few or no skills, increasing numbers of children worked in the informal economy or in the street, where they were exposed to drugs, petty crime, risk of arrest, trafficking for sex and labor exploitation, and HIV/AIDS.

There are laws prohibiting child abuse, but they were neither adequate nor enforced. Efforts in this regard were severely constrained by lack of resources. The Department of Social Welfare (DSW) provided limited social welfare services, but there were only a few officially appointed social workers. The DSW provided support and schooling for a small number of orphaned children or others who were in some other way estranged from their families.

The government continued to allocate minimal resources to public education. According to official figures for fiscal year 2007-8 (April through March), official expenditure allocations for the Ministry of Education comprised 1.1 percent of gross domestic product (GDP). Public schooling was ostensibly provided free through the 10th standard (approximately age 16). However, on average public school teachers' pay was equal to approximately four dollars (5,300 kyat) per month, far below subsistence wages, forcing many teachers either to leave the profession or demand extra payments from their students. Thus, many families had to pay to send their children to school, even at the primary level. According to a Kachin women's group, families in Kachin State had to pay as much as \$230 (300,000 kyat) for their children to attend 10th standard, an amount approximately equal to the average annual income of a skilled laborer. In some areas where families were not able to afford unofficial payments, teachers ceased to work. In response to official neglect, private institutions began to provide assistance in education, despite a legal ban on private schools.

Education is compulsory through the 4th standard, or approximately age 10. The UN Children's Fund (UNICEF) reported that 50 percent of primary school students dropped out of school before finishing the 4th standard. Rates of school attendance were low, largely due to increasing economic hardship, causing students to seek work as domestic helpers or waiters at urban teashops. NGOs estimated that nationwide nearly one million primary-age children did not attend school. There was no difference in the attendance rate of boys and girls.

The government cooperated with the UN Committee on the Rights of the Child. UNICEF reported close working relationships with the DSW and the Ministry of Education, where it worked to support primary education and produce children's storybooks in five minority languages. Faith-based organizations, Buddhist monks and nuns, and private community-based groups also provided educational and other support for children.

Children also suffered from the government's severe neglect of health care. According to official government figures, the budget for the Ministry of Health in fiscal year 2007-8 amounted to 0.3 percent of GDP. There were no reports that the government discriminated between boys and girls in the provision of health care.

The law prohibits child abuse, and the government stated that child abuse was not a significant problem. However, accurate statistics were not available, and some international NGOs believed the problem may have been more widespread than the government acknowledged.

Trafficking in girls for the purpose of prostitution--especially Shan girls who were sent or lured to Thailand--persisted as a major problem. In Rangoon and Mandalay, diplomatic representatives noted widespread presence of female prostitutes who appeared to be in their teens. Additionally, some brothels reportedly offered young teenage "virgins" to their customers for a substantial additional fee.

The use of child soldiers remained a problem, although the number of child soldiers was not known. The official age of enlistment in the army is 18 years. The government stated that its official policy is to avoid conscripting child soldiers; however, numerous recruiters reportedly ignored the policy.

During the June 25-29 visit of UN Special Representative Coomaraswamy, the regime appointed an official in the Ministry of Social Welfare to work with his counterpart on the UN Country Team on problems pertaining to children and armed conflict. The government also appointed an official in the Ministry of Foreign Affairs to work with UNICEF on the child soldier issue. The official from the Ministry of Social Welfare is responsible for matters pertaining to the release and reintegration of child soldiers, while the Ministry of Foreign Affairs official is responsible for monitoring and reporting. In September the government established a technical level working group on the monitoring and prevention of child recruitment. The Committee for Prevention Against Recruitment of Minors for Military Service also agreed to develop, in coordination with UNICEF, a plan for reintegrating into civilian society children affected by armed conflict. However, numerous international NGOs and diplomatic observers reported that a more robust monitoring and training mechanism was needed to address the child soldier problem adequately.

Although authorities allowed Coomaraswamy to meet with representatives of the United Wa State Army, they prevented her from meeting with representatives of the Karen National Liberation Army and Karenni Army, both of which were listed in the UN Secretary-General's 2006 Security Council Report as using child soldiers.

On October 31, Human Rights Watch published a report entitled *Sold to be Soldiers: The Recruitment and Use of Child Soldiers in Burma*, which detailed numerous specific instances of child soldier recruitment and use in the country.

On November 16, Coomaraswamy presented her report on children and armed conflict in the country. The report stated that the UN had received numerous credible reports about violations of international humanitarian law, human rights law, and military directives resulting in the recruitment and use of children by some government military units and several nonstate actors, including the United Wa State Army, Kachin Independence Army, Karenni National People's Liberation Front, Democratic Karen Buddhist Army, Shan State Army-South, Myanmar National Democratic Alliance Army, and Karen National Union Peace Council. However, the report stated that the government had shown increasing interest in addressing underage recruitment and cautioned that it was not able to provide a full picture of the breadth and depth of these violations due to limited access to conflict areas and the lack of guaranteed protection for monitors and victims of violations.

Trafficking in Persons

Although there are laws prohibiting trafficking in persons, trafficking, including of children, remained a problem; however, there were no reliable statistics regarding its extent. Laws specifically prohibiting child prostitution and child pornography were not enforced effectively. In addition to forced labor and forced recruitment of civilians to work as soldiers, Burmese victims were trafficked to East and Southeast Asia and the Middle East for sexual exploitation, domestic servitude, and bonded labor.

Government data showed that Thailand was the primary destination for trafficking victims, with much smaller numbers going directly to China, Malaysia, Bangladesh, Republic of Korea, and Macau.

Young women and girls were at high risk for trafficking for the purpose of sexual exploitation, while both young men and women were trafficked to East and Southeast Asia and the Middle East for domestic servitude and bonded labor. Victims of trafficking faced hazardous conditions, including sexual and physical abuse by their traffickers, poor nutrition and sanitary conditions, and disease, including tuberculosis and HIV/AIDS.

Shan and other ethnic minority women and girls were trafficked across the border from the north; Karen and Mon women and girls were trafficked from the south. There was evidence that internal trafficking generally occurred from poor agricultural and urban centers to areas where prostitution flourished (trucking routes, mining areas, military bases, and industrial areas) as well as along the borders with Thailand and China. Men and boys also reportedly were trafficked to other countries for sexual exploitation and labor.

Human traffickers appeared to be primarily free-lance, small-scale operators using village contacts to send victims to more established trafficking brokers. Brokers were primarily foreign, but some Burmese brokers operated in Thailand and China.

The penalties for trafficking women and minors is 10 years to life; for trafficking men, five to 10 years; for fraud for the purpose of trafficking, three to seven years; for using trafficked victims for pornography, five to 10 years; for trafficking with an organized criminal group, 10 years to life; for serious crime involving trafficking, 10 years to life or the death penalty; for a public official accepting money related to an investigation of the trafficking law, three to seven years. All penalties also include the option of a fine.

The government made limited progress against trafficking in persons. Officials recognized the importance of preventing cross-border trafficking and prosecuting traffickers, but they did little to combat domestic trafficking and took no action on forced labor. Authorities claimed to identify more than 400 traffickers involved in 191 separate cases in 2006; the government took action against 274 offenders, of whom 65 were convicted, and returned 419 trafficking victims, according to police reports. Most of those convicted received sentences of less than five years. Since the government did not accurately distinguish between human traffickers and smugglers, the actual number of traffickers convicted was probably less.

The government worked with the UN Inter-Agency Project on Human Trafficking to sponsor seminars for national, state/division, and lower-level authorities and received training from the Asia Regional Trafficking in Persons Project.

The Ministry of Home Affairs continued to maintain that there was no complicity of government officials in trafficking; however, corruption among local government officials was widespread. NGOs reported that government officials were complicit in trafficking, although it appeared limited to local and regional officials turning a blind eye to trafficking activities. Authorities took no law enforcement action against trafficking by government or military officials. Although corruption was pervasive along the borders, there were no reports of action taken against officials complicit in profiting from or involved in trafficking.

The government had four vocational training centers and one house to shelter female trafficking victims; male victims were temporarily sheltered in training schools. The government insisted that repatriated victims stay for one month in these centers, where they were confined contrary to international norms of victim protection.

The MAAF and the DSW provided some basic health and compulsory counseling services and job training for trafficking victims before turning them over to an NGO or returning them to their families. However, government funding for these programs was very limited.

The government made it difficult for single women to obtain passports or marry foreigners, ostensibly to reduce the outflow of women as victims of trafficking. Regulations forbid females under the age of 25 from crossing the border unless accompanied by a guardian, but most trafficked women crossed the border without passports.

The Ministry of Home Affairs placed antitrafficking units at nine locations known for frequent trafficking. With assistance from international NGOs, the government conducted training and advocacy workshops and also approved nationwide television and radio announcements and distribution of materials at the state/division level.

International and local NGOs offered poverty alleviation and educational programs designed to counter trafficking. These programs were moderately successful.

Persons with Disabilities

The government did not actively discriminate against persons with disabilities in employment, access to health care, education, or in the provision of other state services, but there were few official resources to assist persons with disabilities. There are no laws mandating accessibility to buildings, public transportation, or government facilities, and persons with disabilities faced societal discrimination. There were several local and international organizations that assisted persons with disabilities, but most such persons had to rely exclusively on their families to provide for their welfare.

Military veterans with disabilities received benefits on a priority basis, usually a civil service job at equivalent pay. In principle, official assistance to nonmilitary persons with disabilities included two-thirds of pay for up to one year for a temporary disability and a tax-free stipend for permanent disability; however, the government did not provide job protection for private sector workers who became disabled.

The Ministry of Health is responsible for medical rehabilitation of persons with disabilities, and the Ministry of Social Welfare is responsible for vocational training. The government operated three schools for the blind, two for the deaf, two rehabilitation centers for adults with disabilities, and two for children with disabilities. However, the government provided inadequate funds for its schools and programs for persons with disabilities. Local NGOs operated four schools for the blind.

The ICRC continued to provide rehabilitation services to both civilian and military victims of landmine injuries. Besides operating an orthopedic rehabilitation center in Hpa-an, Karen State, the ICRC also had an active outreach program to identify and refer amputees from remote border villages to its prosthetic services.

National/Racial/Ethnic Minorities

Wide-ranging governmental and societal discrimination against minorities persisted. Animosity between the country's many ethnic minorities and the Burman majority, which has dominated the government and the armed forces since independence, continued to fuel active conflict that resulted in serious abuses during the year. The abuses included reported killings, beatings, torture, forced labor, forced relocations, and rapes of Chin, Karen, Karenni, Rohingya, Shan, Mon, and other ethnic groups by SPDC soldiers. Some armed ethnic groups also may have committed abuses, but on a much smaller scale than the government army.

Rohingya Muslims who returned to Rakhine State were discriminated against because of their ethnicity. Returnees faced severe restrictions on their ability to travel, engage in economic activity, obtain an education, and register births, deaths, and marriages.

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

The government continued to resettle groups of ethnic Burmans in various ethnic minority areas through the establishment of "model villages" in Rakhine State and other regions. Many of these new inhabitants had been released from prison on the condition that they resettle in a "model village." Government jobs in ethnic minority regions, including as teachers, were increasingly reserved for ethnic Burmans, according to reports from Kachin and Kayah states.

There were ethnic tensions between Burmans and nonindigenous ethnic populations, including South Asians, many of whom were Muslims, and a rapidly growing population of Chinese, most of whom emigrated from Yunnan Province. Chinese immigrants increasingly dominated the economy of the northern part of the country.

Other Societal Abuses and Discrimination

Many citizens viewed homosexuals with scorn. Penal code provisions against "sexually abnormal" behavior were applied to charge gays and lesbians who drew unfavorable attention to themselves. Nonetheless, homosexuals had a certain degree of protection through societal traditions.

HIV-positive patients were discriminated against, although HIV activists reported that awareness campaigns helped to reduce discrimination and stigma. However, some persons reportedly were reluctant to visit clinics that treat HIV/AIDS patients for fear of being suspected of having the disease.

Section 6 Worker Rights

a. The Right of Association

The law permits workers to form trade unions with the prior consent of the government; however, no free trade unions existed in the country. Domestic and internationally affiliated unions are not allowed, nor is individual membership in unions. The government forbade seafarers who found work on foreign vessels through the Seafarers Employment Control Division from having contact with the International Transport Workers' Federation, and the government often refused to document seafarers who were abroad, which made it impossible for a seafarer to find regular employment.

On September 7, six labor activists were sentenced to between 20 and 28 years in prison for sedition and illegal association for their connection with a labor rights workshop held in Rangoon on May 1.

On November 20, authorities arrested labor activist U Tin Hla along with his wife and children on charges that he organized railway workers to join September's prodemocracy protests. While his family was released five days later, U Tin Hla remained in custody at year's end.

The government maintained its 2006 ruling that criminalizes contact with the Federation of Trade Unions – Burma, claiming it is a "terrorist group."

b. The Right to Organize and Bargain Collectively

The government does not allow workers to organize or bargain collectively. The government's central arbitration board, which once provided a means for settling major labor disputes, remained dormant, although the Ministry of Labor reportedly played an arbitration role in settling some disputes. Township-level labor supervisory committees existed to address minor labor concerns. Local labor authorities intervened as mediators in informal labor strikes to ensure peaceful resolutions between workers and employers.

The government unilaterally set wages in the public sector. In the private sector, market forces generally set wages; however, the government pressured joint ventures to pay salaries no greater than those of ministers or other senior government employees. Some joint ventures circumvented this with supplemental pay or special incentive systems. Foreign firms generally set wages near those of the domestic private sector but followed the example of joint ventures in awarding supplemental wages and benefits.

The law prohibits labor strikes, although employees at a number of large factories organized more than 60 informal strikes during the year and in many cases won higher wages. Most strikes were resolved without government intervention, but in some cases authorities pressured workers and employers for resolution.

There are no export processing zones; however, there are special military-owned industrial parks, such as Pyin Ma Bin, near Rangoon, which attracted foreign investors, and the 2,000-acre Hlaing Thaya Industrial Zone in Rangoon, where several companies operated. Labor laws are applicable in all industrial zones and across all industries, but they were not always enforced.

c. Prohibition of Forced or Compulsory Labor

The law provides for the punishment of persons who impose forced labor on others. However, government and military use of forced or compulsory labor remained a widespread and serious problem, particularly targeting members of ethnic minority groups. During the 96th session of the International Labor Conference, which met May 30–June 15, the International Labor Organization's (ILO) Committee on the Application of Standards submitted a report on forced labor in the country and expressed its profound concern at the widespread use of the practice, particularly in Karen and Rakhine states. Throughout the country, international observers verified that the government routinely forced citizens to work on roads, construction, and other maintenance projects. Citizens also were forced to work in the military-owned industrial zones.

The government's use of forced labor in support of military garrisons or military operations remained serious in ethnic or religious minority regions. According to credible NGO sources, villagers were ordered to build or repair military camp infrastructure and perform other tasks within the camps, such as standing guard. The same sources also reported that villagers were required to bring lumber, at their own expense, to construct and repair military facilities.

According to the Free Burma Rangers, on March 1, Commander Tin Soe and Sergeant Kyaw Nyut Oo allegedly forced at least 30 villagers from Maladaw in Karen State to carry equipment and food from Maladaw to a new army camp in Saw Tay Der.

The Free Burma Rangers also reported that on March 1, the 375th Light Infantry Battalion forced 160 villagers from Paw Pe Der, Aung Chan Tha, Myaung Oo, and Ye Bet in Karen State to carry supplies from Paw Pe Der to an army camp in Paung Zeik.

On May 7, the army allegedly forced 154 villagers to work on a new road between the 599th Light Infantry Battalion headquarters in Toe Daw and the 590th Light Infantry Battalion in Yin O Sein in Karen State. According to witnesses the villagers were forced to cut wood and bamboo, build livestock shelters, and clean army facilities. Residents in the area reported that the road construction destroyed more than 500 acres of their farmland.

During the year NGOs presented credible evidence that the army continued to use ethnic Karen villagers as porters in attacks against Karen villages in Bago Division and

Karen and Kayah states.

The ILO reported that military units continued to issue oral rather than written demands to village heads to provide forced labor. The ILO also reported that in some cases the government substituted demands for forced labor with demands for forced contributions of materials, provisions, or money. The ILO reported that since 2002 the government increasingly used prisoners not sentenced to hard labor in place of civilians as forced laborers, possibly due to international pressure against the use of civilians. There reportedly were new labor camps, but many were temporary, existing only until the completion of a specific work project. During the year the army reportedly transported convicts from prisons throughout the country to serve as porters in its attacks against Karen villages in Bago Division, Karen State, and Kayah State. The convicts faced dangers from minefields and exposure to gunfire while working with inadequate food and no medical care.

Reports of forced labor for smaller projects in villages countrywide persisted. Authorities also continued to use forced labor countrywide to maintain existing civil infrastructure, including transportation and irrigation facilities. Authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations.

There were reports from nearly every division and state that authorities forced citizens to buy and plant physic nut trees on public and private property as part of the SPDC's campaign to produce more biodiesel fuel. Those who tried to avoid planting the trees were frequently threatened with fines.

On February 26, the ILO and the government signed an agreement establishing a mechanism to address forced labor complaints. Under the agreement the government and the ILO may jointly investigate allegations of labor abuses referred by the ILO. In March authorities responded to the first ILO case referrals and initiated investigations into the cases. In April a court in Aungmye Township in the central region found two village authorities guilty of forcing villagers to repair a road and sentenced them to six months in prison; a third official was acquitted. In a separate case involving child soldier recruitment, the child was returned to his family in April, while local authorities continued to investigate. In August the ILO and the government conducted a joint investigation into forced labor complaints in Rakhine State dating back to March.

The law does not specifically prohibit forced and bonded labor by children, and forced labor by children continued to be a serious problem.

d. Prohibition of Child Labor and Minimum Age for Employment

The law sets a minimum age of 13 for the employment of children, but in practice the law was not enforced. Child labor was prevalent and highly visible. In cities children were employed primarily in small or family enterprises. In rural areas children worked in family agricultural activities. Children working in the urban informal sector in Rangoon and Mandalay often began work at very young ages. In cities child workers were found mostly in the food processing, street vending, refuse collecting, and light manufacturing industries, and as restaurant and teashop attendants.

The law does not prohibit compulsory labor by children, and children were subjected to forced labor. Authorities reportedly rounded up teenage children in Rangoon and Mandalay and forced them into portage or military service.

While no specific government agency has been designated to enforce child labor laws, the Ministry of Labor worked with the Attorney General's Office to change the minimum working age. In December 2006 UNICEF completed a review of legal provisions for working children found in 10 separate labor laws enacted from 1923 to 1993 and made recommendations for protecting children who work. Since 2006 UNICEF has worked with the Ministry of Labor to facilitate several interagency meetings and workshops on the protection of children. In July and November the UN, the Ministry of Labor, international NGOs, and employers held two workshops to discuss preparing a draft for minimum standards and codes of conduct for the protection of working children. In October UNICEF conducted training for Ministry of Labor staff and labor inspection officers on international standards, child rights, and the minimum standards for protecting the rights of working children. According to UNICEF, the government worked with UNICEF to disseminate the minimum standards for the protection of working children.

e. Acceptable Conditions of Work

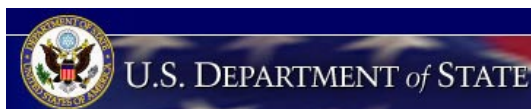
Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The minimum monthly wage for salaried public employees remained at the market equivalent of \$11.50 (15,000 kyat) for what was in effect an eight-hour workday. The rate for day laborers was \$0.38 (500 kyat) per day. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned by senior officials provided a worker and family with a decent standard of living. Low real wages in the public sector fostered widespread corruption and absenteeism. In the private sector, urban laborers earned approximately \$0.38 to \$0.75 (500 to 1,000 kyat) per day, while rural agricultural workers earned approximately half that rate. Some private sector workers earned substantially more: a skilled factory worker earned approximately \$23 (30,000 kyat) per month, according to private sector employers.

A surplus of labor, a poor economy, and the lack of protection by the government continued to foster substandard conditions for workers. The law prescribes a five-day, 35-hour workweek for employees in the public sector and a six-day, 44-hour workweek for private and state enterprise employees, with overtime paid for additional work. Factory workers at state-owned enterprises must work 44 to 48 hours per week, depending on the type of factory. The law also allows for a 24-hour rest period per week, and workers are permitted 21 paid holidays per year; however, in practice such provisions benefited only a small portion of the labor force, since most of the labor force was engaged in rural agriculture or the informal sector. The laws were generally enforced in the government sector, but there were frequent violations by private enterprises.

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

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Cambodia

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor

March 11, 2008

Cambodia is a constitutional monarchy with an elected government and a population of approximately 14 million. Following national elections in 2003, the Cambodian People's Party (CPP), led by Prime Minister Hun Sen, and the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC), led by Prince Norodom Ranariddh, formed a coalition government in 2004. The CPP continued to dominate the three branches of government and other national institutions, with most power concentrated in the hands of the prime minister. Although the civilian authorities nominally controlled the security forces, in practice security forces answered to the CPP leadership.

The government's human rights record remained poor. Although there were no reports that the government or its agents committed politically motivated killings, security forces committed extrajudicial killings and acted with impunity. There was little political will to address the failure by government authorities to adhere to the rule of law. Detainees were abused, often to extract confessions, and prison conditions were harsh. Human rights monitors reported arbitrary arrests and prolonged pretrial detention, underscoring a weak judiciary and denial of the right to a fair trial. Land disputes and forced evictions, often accompanied by violence, were a continuing problem. The government restricted freedom of speech and the press through the use of defamation and disinformation suits, controlled or influenced the content of television and radio broadcasts, and at times interfered with freedom of assembly. Corruption was endemic and extended throughout all segments of society, including the executive, legislative, and judicial branches of government. Domestic violence and child abuse occurred, education of children was inadequate, and trafficking in women and children persisted. The government offered little assistance to persons with disabilities. Antiunion activity by employers and weak enforcement of labor laws continued, and child labor remained a problem.

In a positive turn, on June 12, the Extraordinary Chambers of the Courts in Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea adopted its internal rules to begin prosecuting senior leaders of the Khmer Rouge regime and those most responsible for committing serious crimes. On July 31, the ECCC charged Kaing Guek Eav, alias Duch, with crimes against humanity and subsequently charged four other senior officials; at year's end all were in detention awaiting trial. In addition, on December 10, the government permitted a Human Rights Day march of 500 human rights activists, monks, and other persons and rally of an estimated 2,500 persons in Phnom Penh.

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, human rights nongovernmental organizations (NGOs) reported that extrajudicial killings continued to occur.

The Cambodian Human Rights and Development Association (ADHOC) recorded 53 cases of extrajudicial killings, 14 of which were committed by police, nine by soldiers, six by fishery officials, and the remaining 24 by unidentified government forces. Police arrested perpetrators in four cases.

Political activists continued to be the victims of killings. On February 27, Eang Sok Thoeurn, a Khmer Kampuchea Krom monk, was found dead with his throat cut in the Tronum Chhroeung Monastery in Kandal Province. The deceased monk was discovered the morning after he participated in a demonstration in front of the Vietnamese embassy in Phnom Penh for the rights of Khmer Kampuchea Krom persons living in Vietnam. Police quickly declared the death a suicide and disposed of the body without further investigation. NGOs and Khmer Kampuchea Krom groups suspected the killing was politically motivated.

Active members of political parties were killed during the year, but NGOs and police could not confirm their deaths were politically motivated. On February 14, three unidentified persons killed Sam Rainsy Party (SRP) activist Chea Sovin, spouse of an SRP candidate for the April commune council elections in Battambang Province. On July 27, three unidentified persons shot and killed Kleb Un, SRP commune-level vice party chairperson in Banteay Meanchey Province. A local police chief reported that the perpetrators fled without robbing the victim or taking anything from the scene. Police arrested one suspect in the case but released him after questioning. In both killings, police stated that investigations continued.

On April 4, police officer Siv Soeun allegedly shot and killed a person he claimed was illegally fishing on private property in the Kompong Siem District of Kampong Cham Province. The victim's family filed a complaint against the police officer but later withdrew the complaint after Siv Soeun allegedly paid the family \$3,000 (12 million riel) in compensation. At year's end Siv Soeun had not been charged or arrested.

On November 15, during the eviction of squatters from state land in Choam Ksan commune, Preah Vihear Province, unidentified government forces killed two villagers who protested the eviction. Approximately 150 police, military police, and soldiers evicted 317 families. There was no official investigation into the killings. Police arrested 18 of the squatters, including a deputy governor, on charges of encroachment on state land. The 18 villagers were imprisoned and awaited trial at year's end.

In June the Prey Veng Provincial Court sentenced one suspect in the November 2006 killing of SRP activist Man Meth to 10 years in prison and two others to six months in prison for conspiring in the killing.

On July 18, the Phnom Penh Municipal Court sentenced Heng Pov, former Phnom Penh police commissioner and under secretary of state of the Ministry of Interior (MOI), to an additional 22.5 years in prison for the 2005 illegal detention of a person, use of illegal weapons, and possession of counterfeit currency. Heng Pov was already serving an 18-year sentence for the 2003 murder of Judge Sok Sethamony, multiple counts of premeditated killings, and involvement in illegal arrests and detentions. During his July trial, Heng Pov stated that Born Samnang and Sok Sam Oeun, the two suspects he ordered arrested in 2005 and who later were convicted for the killing of union activist Chea Vichea, were innocent of the crime. On April 12, the appeals court had upheld 20-year sentences each for Born Samnang and Sok Sam Oeun. Their lawyers submitted grievances to the Supreme Court, and at year's end they awaited Supreme Court action.

There were no developments in the 2006 cases of SRP activists Koent Chhuon and Thoeung Thear, killed in Preah Vihear and Kampong Cham provinces, respectively. Likewise, there were no developments in the cases of Pao Rum and Khat Thoeun, who died in police custody in Kandal Province in 2006, or the 2006 cases of attempted prison breaks in Kampong Thom and Battambang that left 10 inmates dead. In the case of Nong Sam, who reportedly died June 2006 in a Siem Reap hospital from head injuries received during a beating by police officers, a provincial court prosecutor closed the case, declaring Nong Sam's death a suicide.

There were no developments in the 2005 killings of five SRP activists or in the 2005 case of an attempted escape from Trapoeung Phlong Prison in which 19 prisoners and the prison director were killed. The appeals court took no action in the 2005 deaths of five villagers and injuries to others by government security forces during a mass eviction from disputed land in the village of Kbal Spean in Banteay Meanchey Province.

On February 8, in Prey Veng Province, district- and commune-level deputy police chiefs Bun Samphea, Suos Bunthat, and Hay Chivon, charged in a 2000 killing, failed to appear for their provincial court trial, reportedly stating they were too busy. The court rescheduled the trial to June but postponed it again after the officers said they were too busy to come to the June trial. A new trial date was not set.

Mines dating from the Indochina conflict and Khmer Rouge period continued to cause casualties. According to the Cambodia Mine/UXO Victim Information System, during the year mines and unexploded ordnance caused 63 deaths, 56 amputations, and 222 other injuries.

Vigilante justice and mob killings persisted. ADHOC reported that mobs killed five persons during the year. Few suspects were arrested. In some instances authorities could not protect suspects from angry mobs. NGOs noted that a majority of mob killings were related to thefts, robberies, or suspected witchcraft. On June 9, Yos Chor villagers in Kampong Speu Province killed a person for stealing a neighbor's chickens. On June 21, a mob killed a traditional healer in the Boribo District of Kampong Chhnang Province because they suspected him of witchcraft. Police made no arrests in either case.

On June 27, the Kratie Provincial Court sentenced six persons to sentences ranging from seven to 10 months in prison for the 2006 vigilante justice killing of Sam Rooun. The court convicted them on charges of causing injury, reduced from investigation findings of murder. There were no developments in the February 2006 case of a person beaten and killed for allegedly practicing witchcraft.

b. Disappearance

On June 30, Khmer Kampuchea Krom monk Tim Sakhorn, head of a pagoda in the Kirivong District of Takeo Province for more than 10 years, disappeared. Previously, on orders of the country's top Buddhist leader, Great Supreme Patriarch Tep Vong, monks from Phnom Penh had defrocked Tim Sakhorn, after which unidentified persons believed to be attached to the MOI pushed him into a vehicle and drove away. The defrocking order stated Tim Sakhorn "broke the solidarity" between Cambodia and Vietnam by using pagodas to spread propaganda that affects the dignity of Buddhism. The monk was known locally for providing food and shelter to Khmer Kampuchea Krom coming from Vietnam. The MOI stated that Tim Sakhorn volunteered to go to Vietnam after he was defrocked, and ministry officials produced a document stating this intent. While signed by Tim Sakhorn, the handwritten document appeared not to be in his writing. On August 2, Tim Sakhorn reappeared in court custody in Vietnam, held on charges of destroying political solidarity. In September the Information Ministry stated that the Cambodian consulate in Ho Chi Minh City was investigating Tim Sakhorn's condition in detention. On November 8, a Vietnamese newspaper reported that a court in Vietnam convicted Tim Sakhorn of undermining solidarity between Cambodia and Vietnam and sentenced him to one year in prison.

On August 10, Land Border Protection Unit 504 soldier Im Bun Ny disappeared in Pailin. According to witnesses, that night four soldiers from his unit invited him to a rubber plantation owned by their unit commander, Brigadier General Pol Sinuon. After Im Bun Ny arrived, the four soldiers beat him and accused him of stealing a gun. Unconfirmed witness reports said Im Bun Ny died from the beating and the soldiers buried his body. At year's end Im Bun Ny was still missing. According to a human rights NGO, local police completed an investigation and submitted findings to the court. The court took no action, and the four soldiers remained at large.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution such practices; however, beatings and other forms of physical mistreatment of police detainees and prison inmates continued to be a serious problem.

There were credible reports that military and civilian police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. Based on interviews with 1,293 detainees from 18 of the country's 26 prisons, the Cambodian League for the Prevention and Defense of Human Rights (LICADHO) reported that during the year authorities tortured 155 prisoners, of whom 125 were tortured in police custody and 30 in prisons. Kicking, punching, and pistol whipping were the most common methods of physical abuse, but techniques also included electric shocks, suffocation, caning, and whipping with wire. NGOs reported that it was not uncommon for police to torture detained suspects until they confessed to a crime. Courts used forced confessions as legal evidence during trial despite admissibility prohibitions under the law.

NGOs noted that during the year there were 180 cases of physical assaults by local authorities, government agents, or private bodyguards, compared with 164 cases in 2006 and 154 cases in 2005.

On May 27, military police officer Prak Vutha of Phnom Sruoch District, Kampong Speu Province, reportedly arrested Sok Soeun after a small scuffle at a restaurant, kept him in military detention overnight without a warrant, and beat him unconscious. According to ADHOC, Sok Soeun's family gave Prak Vutha two cases of beer in return for Sok Soeun's release. Sok Soeun later filed a complaint with local police that the police did not accept. There was no investigation into the case or legal action against Prak Vutha.

No legal action was taken against two policemen from Border Protection Unit 701 implicated in a February 2006 beating of a 13-year-old boy. Likewise, there was no action against officials and no progress in the police investigation of an April 2006 case involving Police Commissioner Team Sangkriem in Preah Vihear Province and three other police agents who detained Kong Salath without a warrant and beat him. No disciplinary or legal action was taken against abusive officers in the April 2006 beating of a motorist by Battambang military police. Regarding the December 2006 case of Tous Sdoeung, whom two military police officers allegedly tortured to death while in detention, early in the year a provincial court prosecutor completed an investigation and forwarded it to an investigating judge. The court investigation continued. The two alleged perpetrators continued to work in their positions as military police officers.

Prison and Detention Center Conditions

Prison conditions did not meet international standards. Conditions remained harsh and at times were life threatening. Government efforts to improve them continued to be hampered by a lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, medical and sanitation problems, food and water shortages, malnutrition, and poor security. According to LICADHO, the 18 prisons they monitored had a designed capacity of approximately 6,440 inmates but held a total 9,582 inmates.

There were reports at some prisons that cells of 40 by 20 feet held up to 110 prisoners. At CC1 prison, cells of 26 by 26 feet held an average of 50 prisoners. In some prisons authorities used shackles and held prisoners in small, dark cells as a form of harsher punishment.

LICADHO reported that 56 prisoners in 18 of the country's prisons died during the year.

Government ration allowances for purchasing prisoners' food routinely were misappropriated and remained inadequate, exacerbating malnutrition and disease. One NGO claimed that in some cases prison authorities sold the NGO's donations of supplemental food intended for prisoners. According to rights organizations, families had to bribe prison officials in order to visit prisoners or provide them food and other necessities. NGOs reported that prisoners whose families bribed prison authorities received preferential treatment including access to visitors, transfer to better cells, and the opportunity to leave cells during the day.

There were reports that officials demanded bribes before allowing prisoners to attend trials or appeal hearings and before releasing inmates who had served full jail terms.

In most prisons there was no separation of adult and juvenile prisoners, of male and female prisoners, or of persons convicted of serious crimes and persons detained for minor offenses. Pretrial detainees were routinely held together with convicted prisoners. LICADHO reported that there were 622 incarcerated minors ages 13 to 17, many of whom were held in prisons that did not have facilities to separate minors from adult prisoners.

The government generally continued to allow international and domestic human rights groups, including the International Committee of the Red Cross, to visit prisons and provide human rights training to prison guards. However, NGOs reported that at times cooperation from local authorities was limited. Authorities curtailed access to pretrial detainees, in particular. The MOI continued to require that lawyers, human rights monitors, and other visitors obtain permission prior to visiting prisoners. The MOI withheld such permission in some politically sensitive cases. NGOs were not allowed to interview prisoners in private.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, at times the government did not respect these prohibitions. On June 7, the National Assembly passed a criminal procedures code, and in August the king signed the law into effect. The new code went allows for pretrial detention of up to six months for misdemeanors and 18 months for felonies. Prior to enactment of this code, the maximum length of pretrial detention for an adult person was six months under the UN Transitional Authority in Cambodia (UNTAC) code, although the government sometimes held pretrial detainees for longer periods. ADHOC reported that at least 100 persons were illegally arrested and detained during the year. ADHOC stated that 32 of those illegally detained were subsequently freed following detainee complaints, interventions by human rights NGOs, or payment of bribes. ADHOC believed that the actual number of arbitrary arrests and detentions was somewhat higher, because some victims in rural areas did not file complaints due to difficulty in traveling to the NGO's offices or out of fear for their family's security. According to ADHOC, no legal or disciplinary actions were taken against the persons responsible for the illegal actions.

Role of the Police and Security Apparatus

The General Commissariat of the National Police, which is under the supervision of the MOI, manages all civilian police units. The police forces are divided into those who have the authority to make arrests, those without such authority, and the judicial police. Military police are permitted to arrest civilians on military property or when authorized by local governments.

Police officers acted with impunity, and in most cases the government took little or no action. There were reports that police, prosecutors, investigating judges, and presiding judges received bribes from owners of illegal businesses.

The law requires police, prosecutors, and judges to investigate all complaints, including those of police abuses; however, in practice judges and prosecutors rarely conducted an independent investigation prior to a public trial. Presiding judges passed down verdicts based only on written reports from police and witness testimonies. In general police received little professional training. Police who failed to prevent or respond to societal violence were rarely disciplined.

There were no developments in the April 2006 case of an antidrug department and military police officer who shot and injured a well-known singer, Sovansocheata. No legal action was taken in the April 2006 case of two Brigade 70 military unit officers who shot and injured a person in Phnom Penh. There were no developments in the June 2006 case in which a military officer shot and injured a garment factory worker. In February an investigating judge in Siem Reap Province issued a warrant for the arrest of three police officers who allegedly raped a 12-year-old girl in November 2006; however, the suspects remained at large. There were no developments in the pending appeal of the April 2006 acquittal of three judges, two deputy prosecutors, and two court clerks originally convicted, then retried after appeal on finding of a mistrial, on charges of corruption and corruption-related conspiracy.

Arrest and Detention

The law requires police to obtain a warrant from an investigating judge prior to making an arrest, but police may arrest without a warrant anyone caught in the act of committing a crime. The law allows police to take a person into custody and conduct an investigation for 48 hours, excluding weekends and government holidays, before charges must be filed. In felony cases of exceptional circumstances prescribed by law, police may detain a suspect for an additional 24 hours with the approval of a prosecutor. However, authorities routinely held persons for extended periods before charging them. Many prisoners, particularly those without legal representation, had no opportunity to seek release on bail. Under the new criminal procedures code, accused persons may be arrested and detained for up to 24 hours before meeting with a lawyer, but prisoners routinely were held for several days before gaining access to a lawyer or family members. According to government officials, such prolonged detention largely was a result of the limited capacity of the court system.

LICADHO reported that as of midyear at least 101 pretrial detainees had been detained longer than the six-month limit. Under the allowable pretrial detainee periods stipulated by the new code, at year's end there were at least 34 such prisoners.

On May 19, two military police officers in Banteay Meanchey Province detained Kim Heang for three days after Kim Heang had a dispute with his neighbor, a regional military official. The two officers made the arrest without a warrant. After an NGO intervened, the officers' commander ordered Kim Heang released. No administrative or legal action was taken against the officers.

On May 25, the Ratanakiri Provincial Court sentenced a 13-year-old Jarai ethnic minority youth to eight months and 10 days in prison for stealing brass gongs. The youth was 12 years old when arrested, under the minimum age for imprisonment, but spent more than eight months in pretrial detention. According to ADHOC, on May 25, a prosecutor filed a suit with the appeals court, but at year's end the youth remained in jail.

On August 9, the Phnom Penh Municipal Court convicted six persons and acquitted two charged with planning bombings at the November 2006 Water Festival. Two of the convicted were sentenced in absentia to 12 years in prison. The remaining four received six-year sentences. Lawyers and NGOs maintained the police did not serve arrest warrants or tell the suspects the charges against them.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, but the government did not respect judicial independence. The courts were subject to influence and interference by the executive branch, and there was widespread corruption among judges, prosecutors, and court officials.

The court system consists of lower courts, an appeals court, and the Supreme Court. The constitution also mandates a constitutional council, which is empowered to review the constitutionality of laws, and a supreme council of the magistracy, which appoints, oversees, and disciplines judges. The composition of both councils heavily favored the CPP.

There is a separate military court system, which suffered from deficiencies similar to those of the civilian court system. While civilians may fall under military court jurisdiction in some cases, the legal distinction between the military and civil courts sometimes was ignored in practice. Civilians have been called for interrogation by military courts with no apparent jurisdiction in their cases.

On June 12, the Extraordinary Chambers in the Courts of Cambodia (ECCC) adopted its internal rules to begin prosecuting egregious crimes of the 1975-79 Khmer Rouge regime. On July 31, the ECCC coinvestigating judges charged Kaing Guek Eav (alias Duch), former Khmer Rouge director of the S-21 torture prison, or Tuol

Sleng, for crimes against humanity and placed him in an ECCC provisional detention center. The ECCC later arrested and detained four more Khmer Rouge leaders and charged them with crimes against humanity and war crimes: Nuon Chea (also known as "Brother Number 2"), Khieu Samphan, Ieng Sary, and Ieng Thirith, who was charged only with crimes against humanity. In August Duch's lawyers filed an appeal against his provisional detention. On December 3, the ECCC pretrial chamber decided unanimously to affirm the detention order and dismiss the appeal.

Trial Procedures

Trials are public. Juries are not used; the presiding judge possesses the authority to pass a verdict. Defendants have the right to be present and consult with an attorney, confront and question witnesses against them, and present witnesses and evidence on their own behalf. If a defendant cannot afford an attorney, the court is required to provide the defendant with free legal representation; however, the judiciary lacked the resources to provide legal counsel, and most defendants sought assistance from NGOs or went without legal representation. Trials typically were perfunctory, and extensive cross-examination usually did not take place. Defendants and their attorneys have the right to examine government-held evidence relevant to their cases; however, at times it was difficult for them to obtain such access, especially if the case was political or involved a high-ranking government official or well-connected member of the elite.

Defendants are entitled by law to the presumption of innocence and the right of appeal, but due to pervasive corruption, defendants often were expected to bribe judges to secure a verdict. A citizen's right to appeal sometimes was limited by difficulty in transferring prisoners from provincial prisons to the appeals court in Phnom Penh. Many appeals thus were heard in the absence of the defendant.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and the government did not ensure due process. From January through September, the Center for Social Development monitored 1,420 felony and misdemeanor hearings with 2,437 defendants and found trial procedure abuses in the Supreme Court, appeals court, and four lower courts. In a report of trials observed from January to March, the center stated that courts tried 34 percent of 740 defendants in absentia. At the appeals level, defendants were not present during trial in 69 percent of cases. Of defendants charged with felonies, 37 percent had legal representation, compared with 7 percent of those charged with misdemeanors.

Officials reported many suits were pending due to a shortage of judges and courtrooms. NGOs blamed the slow process on court officials who focused on cases from which they could gain financial benefits.

There remained a critical shortage of trained lawyers, particularly outside Phnom Penh. Persons without means to secure counsel often were effectively denied the right to a fair trial. According to the Bar Association, approximately 30 percent of the country's 573 lawyers provided legal counsel to poor persons, although this was inadequate to cover the basic legal rights of all of the country's poor.

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

Court delays or corrupt practices often allowed accused persons to escape prosecution. Government officials or members of their families who committed crimes often enjoyed impunity.

Although the courts prosecuted some members of the security forces for human rights abuses, impunity for most of those who committed abuses remained a problem. In many criminal cases, rich or powerful accused individuals usually paid money to victims and authorities to drop the criminal charges against them. Authorities were known to urge victims or their families to accept financial restitution in exchange for dropping criminal charges.

Born Samnang and Sok Sam Oeun remained in prison for the murder of Chea Vichea. On April 12, an appeals court hearing upheld the Phnom Penh Municipal Court decision sentencing them to 20 years each in prison, despite new exculpatory evidence. On June 7, lawyers filed grievances with the Supreme Court and at year's end were awaiting action.

On June 7, the National Assembly passed a criminal procedures code, and in August the king signed the law into effect. As a cornerstone of national law also to be employed at the Khmer Rouge Tribunal, the new code was based on wide international consultation and was viewed as meeting an international standard suitable for the tribunal's trial judges.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The country has a judiciary in civil matters, and citizens are entitled to bring lawsuits seeking damages for human rights violations. Generally, there are both administrative and judicial remedies. However, the judiciary was generally viewed as corrupt, politically biased, and weak, and persons seldom filed complaints because they did not trust the judicial system. The public appeared especially distrustful of the judiciary to act in a transparent manner when a case was in conflict with the government. Enforcing a court order for a civil or criminal case was often problematic. Persons occasionally turned to vigilante justice.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law provides for the privacy of residence and correspondence and prohibits illegal searches; however, police routinely conducted searches and seizures without warrants.

There continued to be reports of authorities entering private properties without proper judicial authorization. Due to the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership often was unclear, and most landowners lacked adequate formal documentation of ownership. The 2001 land law states that any person who peacefully possessed private property without contention for five years prior to the 2001 promulgation of the law has the right to a definitive title to that property. Widespread land speculation fueled disputes and increased tensions between poor rural communities and speculators. The Cadastral Commission, which settles disputes over land that was not registered or where an owner was not given a land certificate, continued to perform its functions slowly. The courts remained responsible for resolving disputes in cases where land was registered or disputants were given land titles. The National Authority for Resolving Land Disputes, established in 2006 to adjudicate land cases, was ineffective.

Problems of inhabitants being forced to relocate continued to occur when officials or businesspersons colluded with local authorities. Some persons also used the court system to intimidate the poor and vulnerable into exchanging their land for compensation below market value. ADHOC reported receiving 382 land-related cases affecting 19,329 families during the year. During the same period, LICADHO received 98 land-related cases in Phnom Penh and 13 other provinces affecting a total of 6,048 persons. The poor often had no legal documents to support their land claims and lacked faith in the judicial system. Some of those expelled successfully contested these actions in court, but the majority lost their cases.

On January 23, 200 ethnic Jarai villagers in Ratanakiri Province filed a complaint with the provincial court and a criminal complaint with the provincial prosecutor against

Keat Kolney, a well-connected individual, for confiscation of 1,112 acres of their land in 2004. Many villagers rejected Keat Kolney's settlement offers. On June 19, Keat Kolney sent a letter to the Cambodian Bar Association alleging the legal aid NGO lawyers who represented the villagers trained the villagers to say false things to the media and asked the association to investigate the lawyers. On June 21, Keat Kolney filed criminal complaints accusing the villagers of fraud and the lawyers of inciting villagers to commit fraud. In late July 42 of the 200 villagers retracted earlier statements and said they willingly sold the land to Keat Kolney. At year's end a provincial court investigation continued.

On April 20, approximately 150 military police and police officers armed with guns, electric batons, and tear gas forcibly evicted 117 families from the Mittapheap District in Sihanoukville. Several villagers were injured, and their houses were demolished.

On May 4, 30 L'Vea Em District villagers of Kandal Province approached the National Assembly to intervene in an economic land concession. Community families had been farming and inhabiting the disputed 1,730 acres when, on April 25, a Chinese company began digging up the land, acting on a 2006 government concession for development. The company reportedly suspended operations due to villagers' protests.

On May 29, 40 soldiers from ACO Tank Command Headquarters in Kampong Speu Province used an armored vehicle to destroy crops and fences on 60 acres of land occupied by 25 Phnom Srouch District families. Military officials stated the land was part of a shooting range and the villagers had illegally occupied the land. In 2002 the villagers had sought title to their land with the Cadastral Commission, and in 2006 they complained to the National Authority to Resolve Land Disputes, stating they had lived on the land since 1979. At year's end these requests had not resulted in any action.

Eviction notices were served without proper judicial authorization. On July 31, Sihanoukville City Hall issued an eviction notice ordering more than 100 families out of the city's Mittapheap District. Responding to villagers' plea for intervention, the prime minister ordered the Sihanoukville governor to reexamine the case. On May 8, representatives of 146 families of the Phnom Penh Tonle Bassac Group 78 (G78) area made public their own neighborhood development plan. The plan was in response to a June 2006 municipality eviction notice stating the land would be developed for beautification purposes. Many of the families had lived on the land since the 1980s and claimed ownership under the 2001 land law. G78 community members stated that the municipality offered compensation that was approximately equal to 2 percent of the independently assessed market value, plus one plot in a Phnom Penh eviction resettlement site per family. At year's end there were no decisions on these evictions.

On March 3, the CPP Central Committee granted the prime minister sole power to resolve land disputes involving CPP officials. The prime minister then announced a war against illegal land grabbers, warning CPP officials to surrender illegally obtained land or face removal from their positions. As a result, the government claimed that the director general of the military's technical and materials department, Chao Phirun, handed over 495 acres of land and an anonymous CPP official withdrew from a Kandal Province land dispute. Neither official faced reprimand. On March 10, authorities arrested CPP member and military Colonel Te Haing over a 2,500-acre land dispute in Banteay Meanchey Province. At year's end Te Haing was awaiting trial. In November Tan Seng Hak, a former advisor to CPP Chairperson Chea Sim, was convicted for falsifying documents and giving false testimony in connection with his alleged efforts to take over 740 acres in Phnom Penh. He was sentenced to a total of five years and eight months in prison. There were no developments on the prime minister's May 2006 plan to redistribute 494,210 acres of land to 50,000 farmers in Sihanoukville.

Living conditions worsened at two of the resettlement sites for former residents of the two Phnom Penh communities of Tonle Bassac Sambok Chab and Preah Monivong Hospital areas, whose 1,200 and 168 families, respectively, were evicted in 2006, reportedly through a nontransparent process that may not have included proper judicial authorization. Authorities offered evicted residents relocation site plots, but plots at two of the sites were widely considered to be inadequate compensation. The sites lacked sufficient sanitation facilities, electricity, clean water, health facilities, schools, and central markets and were far from Phnom Penh's commercial center, where residents could earn an adequate income.

The appeals court took no action on a February 2006 complaint by SRP parliamentarian Son Chhay, who was directed by the Siem Reap Provincial Court to sell 7.8 acres of his land to a government agency for an amount below the market price. The appeals court took no action in the 2006 case of 12 persons convicted in connection with a Kampot Province confrontation between 2,000 squatters and local police over the squatters' rights to live on government land. In a 2006 eviction case in Pream Chor District, Prey Veng Province, that left one person dead and four others injured, police who were implicated in the killing accused some of the villagers of robbery, in what NGOs said was an attempt to intimidate the villagers. On November 1, the provincial court questioned seven of the villagers on the robbery charges, and the court investigation continued at year's end. However, there were no new developments in the investigation of the eviction killings and injuries. There were no new developments in the August 2006 Koh Kong Province land dispute in which the Ministry of Agriculture provided two adjacent land concessions to businessman and CPP senator Ly Yong Phat in contravention of known legal standards.

There were no developments in a 2005 land dispute involving indigenous Phnong hill tribe members and a Chinese company in Monduliri Province.

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, these rights were not always respected in practice.

The constitution implicitly limits free speech by requiring that it not adversely affect public security. The constitution also declares that the king is "inviolable." In December the Ministry of Information issued a directive that reiterates these limits and prohibits publishers and editors from running stories that insult or defame government leaders and institutions.

The 1995 press law prohibits prepublication censorship or imprisonment for expressing opinions. However, the government continued to use the older UNTAC law to prosecute journalists and others on defamation and disinformation charges. In 2006 the National Assembly amended the UNTAC law, eliminating imprisonment for defamation but not for spreading disinformation, which carries prison sentences of up to three years. In both types of cases, judges can order fines, which may lead to jail time if not paid.

The government and influential individuals used the weak and often politically biased judiciary to file defamation and disinformation suits, both civil and criminal, in an effort to silence critics. In February the Phnom Penh Municipal Court charged *Sralanh Khmer* of disinformation and insulting the court's director, Chiv Keng. Also in February Sihanoukville Municipal Governor Say Hak filed a defamation suit against pro-Norodom Ranariddh Party (NRP) newspaper *Samleng Yuveachun Khmer* (Voice of Khmer Youth) over an article linking him to land grabbing. In July NRP Vice Secretary General Sao Rany filed a defamation suit against *Sralanh Khmer* for printing a report claiming his daughter had an affair with Prince Ranariddh. In November General Un Den lodged a defamation and disinformation lawsuit against Thach Keth, the publisher of *Sralanh Khmer*, for printing an article that accused the general of smuggling vehicles across the border from Thailand. At year's end there were no formal decisions in these cases.

In July Phnom Penh Municipality Governor Kep Chuktema filed a disinformation suit against the editor of *Samleng Yuveachun Khmer* for an article alleging the governor sold City Hall to a private developer. In November the editor paid bail of \$500 (two million riel), and at year's end the case was pending with the court.

The constitution states that the country shall not invade any country nor interfere in any other country's internal affairs, directly or indirectly. Making a statement in contravention of this constitutional provision is considered a crime. In the case of at least one Khmer Kampuchea Krom activist, an arrest warrant was outstanding due to his statements about what the government considers to be sovereign Vietnamese territory.

Many interpreted a law passed in 2006 as limiting the right of members of Parliament (MPs) to speak freely. The law declares that MPs may not use their parliamentary immunity to abuse national security, social customs, or an individual's honor. In addition, the law allows an MP to be arrested, charged, and detained prior to the lifting of

parliamentary immunity. At year's end no MP had been charged under this law.

All major political parties had reasonable and regular access to the print media. Although the press law does not specifically permit newspapers to receive financial support from political parties, all major Khmer-language newspapers received such support and were politically aligned. There were an estimated 20 Khmer-language newspapers published regularly; more than half were considered pro-CPP, and at least two newspapers were considered to support each of the other main political parties--FUNCINPEC, the SRP, and the NRP. Although the three largest circulation newspapers were considered pro-CPP, most newspapers criticized the government, particularly on corruption and land grabbing. The prime minister, NRP president Prince Norodom Ranariddh, FUNCINPEC party leaders, and opposition party leader Sam Rainsy frequently came under attack.

The government, military forces, and ruling political party continued to dominate the broadcast media and influence the content of broadcasts. There were approximately 50 radio stations and seven television stations. Most were controlled or strongly influenced by the CPP, although a few were independent or aligned with other parties. In August the Ministry of Information issued a broadcast license to a CPP government official to open a Phnom Penh radio station after denying similar requests since 2003 from the SRP and independent human rights advocacy organizations. In September the Cambodian Center for Human Rights (CCHR) Voice of Democracy (VOD) again requested a license, but the ministry denied the application, restating previous claims that the media market was saturated. In February the Information Ministry ordered all television and radio stations not to transfer or sell licenses if unable to continue operating and to return the license to the ministry.

Despite being unable to obtain a broadcast license, the VOD radio program, which included independent and often antigovernment views, remained popular and continued broadcasting its program on several radio stations, including the SRP-aligned radio station FM 93.5. In July CCHR announced that it had transferred management of VOD to the newly established Cambodian Center of Independent Media. Taped programming from Voice of America (VOA) and Radio Free Asia (RFA) Khmer-language service was also regularly broadcast on Beehive/FM 105, the Women's Media Center FM 102, and Rota Angkor FM 95.5 (Siem Reap) radio stations. Four political parties were each broadcasting daily one-hour shows on FM 105.

Journalists, publishers, and distributors were also subject to other forms of harassment and intimidation, including death threats. In June the Ministry of Information ordered the confiscation of printed copies of a report by the international NGO Global Witness accusing the prime minister and close relatives and associates of involvement in illegal logging. The report was freely available via the Internet, and local media made references to the report. A June 8 letter signed by Information Minister Khieu Kanharith to *Sralanh Khmer* demanded the newspaper immediately stop publishing a serialized version of the report or face legal action; the newspaper complied.

In the same period, French-language newspaper *Cambodge Soir* closed down, reportedly due to bankruptcy. A few days prior, according to media reports, employees declared a strike because a reporter was dismissed for publishing a story about the Global Witness report. After a closure of several months, the newspaper resumed as a weekly publication.

In October Radio Beehive Director Mam Sonando suspended the NRP's radio show "Royalist Voices" for several days after the program criticized the prime minister. An RFA journalist fled the country reportedly after receiving death threats for his coverage of illegal logging in Kampong Thom Province. The reporter returned several weeks later and resumed work unharmed.

In February the Ministry of Information threatened to close pro-NRP newspaper *Khmer Amatak* (Permanent Khmer) for printing an article alleged to have incited tension between the country's two main Buddhist sects, and in October the ministry suspended the newspaper for one month for failing to publish a "correction" the ministry requested regarding a September article involving two senior FUNCINPEC officials.

In early November authorities seized copies of the premier issue of foreign-funded *Free Press Magazine* for criticizing retired king Norodom Sihanouk, the prime minister, and other government officials.

In May the prime minister publicly criticized an RFA reporter as "insolent" and "rude" for asking questions about the coalition between the CPP and FUNCINPEC. Purportedly fearing for his personal safety, the reporter went into hiding outside the country. He returned to work a few weeks later without incident.

In June three reporters from the newspapers *Sarpotamean Ekkereach Kampuchea* (Cambodian Independence News) and *Sarpotamean Tasanak Khmer* (Khmer Vision News) in Pursat Province alleged that provincial court official bodyguards beat them at gunpoint for trying to take photographs of a truck carrying illegal timber.

On August 4, Oeun Vannak, deputy commander of the Pursat Province military police, allegedly physically attacked journalist Heng Veasna over the journalist's investigation into claims of illegal use of firearms by two military police officers. Heng Veasna filed a complaint with the provincial prosecutor, but at year's end the court had not taken action in the case, and Oeun Vannak continued his military police duty.

In August the home of a *Chhbas Ka* (Accurate News) newspaper reporter was set on fire twice. The journalist claimed the first fire was set the day after he received a threatening telephone call over his report on illegal logging in Pursat Province. A few days later, provincial authorities charged two suspects with arson. The cases were pending before the court at year's end.

In November a man accused three journalists from the newspaper *Samleng Santepheap* (Voice of Peace) in Kampong Thom of stealing \$1,050 (4.2 million riel) when the reporters visited his home to investigate allegations that he was illegally raising snakehead fish. Police arrested and questioned the reporters but eventually released them after the intervention of a senior official from the Ministry of Information.

In December a VOD reporter investigating the removal of a statue from a pagoda claimed to have been detained by military and police officers, who deleted photographs from his camera before releasing him.

Most reporters and editors privately admitted to some self-censorship due to fear of government reprisals. In February two major daily Khmer newspapers refused to print advertisements demanding justice for the two men imprisoned for the killing of union leader Chea Vichea. Reporters for VOA, RFA, and some opposition newspapers worked from unmarked offices and reported stories using pseudonyms.

The government-controlled national television and radio stations broadcast live or taped sessions of National Assembly debates; however, in several instances these broadcasts were censored. National radio and television stations broadcast some human rights, social action, public health, education, and civil society programming produced by domestic NGOs.

The government occasionally restricted media access to some government facilities. The constitution mandates media access to National Assembly sessions, and the National Assembly allowed reporters to enter its grounds upon clearance by its security office. In 2005 the Phnom Penh Municipal Court chief ordered that reporters must have written permission to bring recording devices into the courtroom and to interview court officials. Such permission rarely was sought, and there were no reports of the court denying permission. A July 2006 Council of Ministers directive prohibiting government officials and employees from speaking to the media or the public about government corruption remained in effect.

In August government authorities confiscated digital video discs with images of bodies in an airplane crash in Kampot Province, stating that the images would create fear among tourists. The video discs remained readily available in Phnom Penh and other areas of the country.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Although the International Telecommunication Union estimated the country's Internet penetration was 0.3 percent in 2006, in urban areas Internet access was widely available through Internet cafes and home subscriptions.

Academic Freedom and Cultural Events

In general there were no legal impediments to academic freedom. However, scholars tended to be careful when teaching politically related subjects for fear of offending politicians. In February the Phnom Penh Municipal Court sentenced Tieng Narith, a former professor at the Buddhist University of the Royal Academy of Preah Sihanouk Reach, to two and a half years in prison for teaching from a self-published text containing antigovernment material. The verdict also ordered a fine of \$1,250 (5.25 million riels) or two additional years in prison. Tieng Narith's family claimed that he was mentally ill, and during the trial the court ordered a psychiatric examination, the results of which were kept confidential. It was unclear how the medical exam results affected the case, if at all. At year's end the case was under appeal.

There were no government restrictions on cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of peaceful assembly, but at times the government did not respect this right in practice. The government required that a permit be obtained in advance of a march or demonstration. The government routinely did not issue permits to groups critical of the ruling party or of nations with which the government had friendly relations. Authorities cited the need for stability and public security as reasons for denying permits. Police forcibly dispersed groups that assembled without a permit, often resulting in minor injuries to some demonstrators.

ADHOC reported that out of 98 protests--55 of which were related to land and 26 to labor disputes--police and military police dispersed 17 protests, three of which were by labor protesters, 10 by land rights protesters, and four by Khmer Kampuchea Krom monks. However, the government permitted some human rights--related marches and demonstrations. On December 10, the government permitted a Human Rights Day march of 500 human rights activists, monks, and other persons and a rally of an estimated 2,500 persons in Phnom Penh. In the previous two years, such rallies without marches occurred in an enclosed space.

On February 27, police and military police dispersed 60 Khmer Kampuchea Krom Buddhist monks demonstrating at the Vietnamese embassy in Phnom Penh during a state visit by the Vietnamese president. Demonstrators assembled to support Khmer Kampuchea Krom monks in Vietnam who had been defrocked and arrested, urging their release and reinstatement as monks. The next morning one monk protester was found dead with his throat cut. On March 16, police and local authorities in Kandal Province prevented the deceased monk's Khmer Kampuchea Krom community members and monks from holding his funeral.

On April 20, police and municipal authorities dispersed 80 Khmer Kampuchea Krom monks assembled at the Vietnamese embassy trying to deliver a petition in protest of alleged Vietnamese government rights abuses of Khmer Kampuchea Krom living in Vietnam. The protesters decided to go to another embassy to present the petition. On the way a group of unidentified, non-Khmer Kampuchea Krom monks and laypersons aggressively intercepted the demonstrators and attempted to disperse them. In the ensuing scuffle, one of the Khmer Kampuchea Krom monks was injured. Authorities did not intervene in the confrontation and did not conduct an investigation. On December 17, 40 monks sought again to deliver a petition to Vietnamese embassy officials for the release of Tim Sakhorn and other Khmer Kampuchea Krom monks imprisoned in Vietnam, and also for the return of land that they claimed the Vietnamese government seized from Khmer Kampuchea Krom persons in southern Vietnam. Police attempted to disperse the crowd, but the monks refused to disband, and violence broke out on part of both the police and the monks. A local NGO reported that six monks were injured; police stated that some of the police sustained minor injuries.

On November 26, Ratanakiri provincial police blocked the CCHR from holding a public forum in Kong Yu Village, where community members were embroiled in a land dispute with Keat Kolney. Police gave conflicting reasons for preventing the forum from taking place (see section 1.f.).

On June 8, Supreme Patriarch Non Ngeht and Minister of Cults and Religious Affairs Khun Haing signed a directive prohibiting monks from participating in protests, strikes, riots, or marches. According to media reports, a constitutional council member stated the ban violated the constitution.

Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice; however, the government did not effectively enforce the freedom of association provisions of the labor law.

Membership in the Khmer Rouge, which ruled the country from 1975 to 1979 and after its overthrow conducted an armed insurgency against the government, is illegal, as is membership in an armed group.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution also prohibits discrimination based on religion, and minority religions experienced little or no official discrimination. Buddhism is the state religion, and more than 93 percent of the population is Buddhist. Ethnic Cham Muslims constitute most of the remaining population.

The law requires all religious groups, including Buddhists, to submit applications to the Ministry of Cults and Religious Affairs to construct places of worship and conduct religious activities. However, there is no penalty for failing to register. In July the Ministry of Cults and Religious Affairs issued a directive restating a 2003 order prohibiting public proselytizing, which continued to be loosely enforced. On August 10, authorities in Phnom Penh dispersed a gathering of approximately 3,000 Christians, stating that organizers did not have proper permits. Prior to the gathering, organizers obtained a permit from the MOI but had not received a response on a request pending with the Ministry of Cults and Religious Affairs.

Societal Abuses and Discrimination

Minority religions experienced little or no societal 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 [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in

practice.

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

Protection of Refugees

The laws 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 established a system for providing protection to refugees. The convention and its protocol have had the full force of the law in the country since accession in 1992. According to the Office of the UN High Commissioner for Refugees (UNHCR), the government abides by the convention and international customary law on refugees. The government allows the UNHCR to process asylum seekers and assist refugees while they are in the country.

A memorandum of understanding that the government signed in 2005 with the UNHCR and the government of Vietnam to resolve the situation of Montagnards under UNHCR protection remained in effect. Asylum seekers who reached the UNHCR Phnom Penh office were processed with government cooperation. During the year there were 449 new arrivals seeking asylum with the UNHCR. According to the UNHCR, 97 Montagnard and 20 non-Montagnard refugees departed for a third country, while authorities deported 30 rejected Montagnard asylum seekers to Vietnam, and 33 Montagnards voluntarily returned to their country of origin. At year's end there were 467 Montagnards in UNHCR protection sites in Phnom Penh, which included 101 Montagnards who arrived in previous years. According to the UNHCR, during the year no refugees requested local integration.

In practice the government provided some protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. Through the assistance of the UNHCR, during the year the government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol, affording such protection to approximately 150 persons. However, an NGO based in Ratanakiri Province reported that local police unofficially returned 59 asylum-seeking Montagnards to Vietnam without UNHCR review.

On April 20, Ratanakiri provincial police arrested two persons on charges of human trafficking for their roles assisting Montagnards. NGOs claimed the suspects provided asylum seekers food, shelter, and transportation to the UNHCR office in Phnom Penh once they had crossed the border from Vietnam. At year's end the suspects had been released with charges against them dropped.

An NGO claimed that local authorities at the border with Vietnam continued searches for Montagnards when they received information about new arrivals of Montagnards. There were unconfirmed reports that Vietnamese authorities offered incentive awards to Cambodian border police who returned Vietnamese refugees to Vietnam and that Vietnamese secret police covertly conducted searches for Vietnamese refugees on the Cambodian side of the border.

Stateless Persons

The country had habitual residents who were de facto stateless, and the government had not effectively implemented laws or policies to provide such persons the opportunity to gain nationality. Under the nationality law, citizenship is derived by birth from a foreign mother and father who were born and living legally in the country, or from a mother or father who has Cambodian citizenship. A study commissioned by the UNHCR estimated that several thousand potentially stateless persons lived in the country. However, the study's estimated number of such persons came from anecdotal evidence of NGOs that provided services to disenfranchised communities, including persons with no proof of nationality, and not from a survey of stateless persons; therefore, local UNHCR representatives did not consider the figure conclusive.

The UNHCR stated that the country's potentially stateless population included mostly ethnic Vietnamese. According to an NGO that worked with ethnic Vietnamese, individuals without proof of nationality often did not have access to formal employment, education, marriage registration, the courts, and land ownership. The most common reason for statelessness was lack of proper documents from the country of origin.

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

The constitution provides citizens the right to change their government peacefully, and citizens generally exercised this right in practice through periodic elections on the basis of universal suffrage. Suffrage is voluntary for all citizens age 18 years and older.

Elections and Political Participation

On April 1, the country held elections for 11,353 chiefs, first deputies, second deputies, and councilors for 1,621 commune councils. The CPP won 70.4 percent of the positions, the SRP 23.4 percent, NRP 3.7 percent, and FUNCINPEC 2.4 percent.

Most observers agreed the commune council elections were the least violent and best organized elections ever held in the country. While there were problems at some polling stations, NGOs, opposition parties, monitors, and others disagreed as to how and whether the problems affected the overall outcome of the elections. Three NGOs reported that election officials did not allow some registered voters to vote because of voter registration list discrepancies such as mistyped and misspelled names or absence of names from the voter list, often due to names transferred to different polling stations without informing the voter. Additionally, NGOs and opposition parties complained that the CPP started advertising weeks or months in advance through the mostly CPP-dominated media without reprisal. NGOs reported that on election day, some ruling party incumbents illegally issued voter registration documents, stood watch in some polling station areas where local authorities were prohibited, and provided assistance to voters in these prohibited areas.

Parties and individuals were free to be candidates without restrictions. On March 13, the Phnom Penh Municipal Court sentenced NRP president Prince Norodom Ranariddh in absentia to 18 months in prison and a \$150,000 (600 million riel) fine on charges of breach of trust. The prince chose self-exile during the election campaign and on election day rather than face the charges. On October 3, the appeals court rejected his appeal of the Phnom Penh court's decision. Plans to appeal this decision had not been realized by year's end.

Some NGOs and political parties alleged that membership in the dominant CPP party provided advantages, such as gifts or access to government emergency aid.

Traditional culture limited the role of women in government; however, women took an active part in the 2003 national elections. The number of women increased in the National Assembly, Senate, and senior government positions. There were 22 women in the 123-seat National Assembly, nine women in the 61-seat Senate, and 24 women working as ministers, secretaries of state, undersecretaries of state, and National Election Commission officials. Women also served as advisors, and there were 13 female judges in the municipal and provincial courts, appeals court, and Supreme Court. In the April commune council elections, 14.6 percent of the elected councilors were women, of whom 67 were elected as chiefs. This was an increase from the 2002 commune council elections, when women won 9 percent of the total positions.

There were four members of minorities--two Cham and two other ethnic minorities--in the National Assembly. There also were six members of minorities in the Senate. At least eight officials in senior positions in the government were from minority groups.

Government Corruption and Transparency

There is no anticorruption law, and only a few provisions of other laws provide criminal penalties for official corruption. Officials frequently engaged in corrupt practices

with impunity. The World Bank's Worldwide Governance Indicators reflected that corruption was a severe problem.

In 2005 the prime minister instructed the Ministry of National Assembly-Senate Relations and Inspection to prepare a draft anticorruption law. As of year's end, observers had not seen a revised draft since September 2006, and the issue was pending with the Council of Ministers.

Corruption was considered endemic and extended throughout all segments of society, including the executive, legislative, and judicial branches of government. Public perception of corruption was widespread. A 2006 Economic Institute of Cambodia assessment found that the private sector perceived the judiciary to be the most corrupt institution in the country, followed by the tax and customs services, public health care, and police. Meager salaries contributed to "survival corruption" among low-level public servants, while a culture of impunity enabled corruption to flourish among senior officials.

The Economic Institute's 2006 assessment of corruption in the private sector estimated that in 2005 private sector unofficial payments to public officials totaled \$330 million riels. The assessment also found that the larger the private firm, the larger the payments required by government officials. The same study found that approximately 25 percent of potential taxes were collected from the private sector in 2005, representing a loss to the government of approximately \$400 million riels. In June Global Witness published a report charging high-level government officials with corruption related to illegal logging. Some observers and many government officials criticized the report as noncredible based on its heavy reliance on anonymous sources.

The National Archives Law allows unlimited access to informational documents in the public archive. However, the law grants access to other unspecified government documents only after 20 years, and documents affecting national security and preservation of personal lives would be released after 40 and 120 years, respectively. In practice the government occasionally denied access to information, citing reasons of confidentiality or national security.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often cooperated with human rights workers in performing their investigations; however, there were numerous reports of lack of cooperation or even intimidation by local authorities throughout the country.

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

Domestic and international human rights organizations faced threats and harassment from local officials. These took the form of restrictions on and disruptions during gatherings sponsored by NGOs, verbal intimidation, threats of legal action, and bureaucratic obstruction.

On May 15, a CCHR coordinator went into hiding claiming that Sihanoukville authorities threatened to arrest him on charges of forming an illegal armed force for his role organizing a resistance effort to a forced eviction in Sihanoukville's Mittapheap District. He returned to work a few weeks later without incident.

There were no developments in the May 2006 case of an ADHOC activist temporarily detained in Koh Kong Province for photographing a confrontation between villagers and officials.

In January the UN Special Representative of the Secretary-General for human rights in Cambodia, Yash Ghai, submitted to the UN Human Rights Council a report on his March 2006 visit expressing concerns about land grabbing and government land concessions. Afterward the prime minister publicly called the special representative derogatory names, refusing to meet with him ever again. In December Yash Ghai made a 10-day assessment visit to the country during which the prime minister reiterated his opinions and no government official granted him a meeting.

The Cambodian National Human Rights Commission remained largely inactive. The committee did not have regular meetings or a transparent operating process.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, color, or language; however, the government did not generally protect these rights.

Women

The law prohibits rape and assault; nevertheless, local and international NGOs reported that violence against women, including domestic violence and rape, was common. Rape is a criminal offense and punishable by a prison sentence of between five and 10 years, according to the UNTAC law. Spousal rape and domestic abuse are not recognized as separate crimes. A case of spousal rape could be prosecuted as "rape," "causing injury," or "indecent assault," but such charges were rare. The domestic violence law criminalizes domestic violence but does not specifically set out penalties. However, the UNTAC law on battery and injury can be used to penalize domestic violence offenses, with penalties ranging from two months to five years' imprisonment.

According to one NGO, there were 1,025 cases of domestic violence and 221 cases of rape reported in three provinces. Of these cases, courts tried 104 and 28, respectively, resulting in successful conviction in five cases of domestic violence and 20 cases of rape. LICADHO documented 209 cases of domestic violence affecting 213 victims in 12 provinces during the same time period. The MOI's antitrafficking department investigated 529 cases of violence against women and children, resulting in the arrest of 582 perpetrators and rescue of 771 victims. Of the 582 arrests, 458 were for rape and attempted rape. Twelve cases of rape resulted in the death of the victims. A legal advocacy NGO reported receiving 84 cases of domestic violence, 34 of which went to trial during the year. The number of cases likely underreported the scope of the problem, due to ineffective enforcement and the fact that women were afraid to make complaints against perpetrators. NGOs reported that enforcement of the domestic violence law was weak, authorities continued to avoid involvement in domestic disputes, and victims frequently were reluctant to pursue formal complaints.

The government supported NGOs that provided training for poor women vulnerable to spousal abuse, prostitution, and trafficking. A local media center, an NGO, and the Ministry of Women's Affairs produced programming on women's issues. NGOs provided shelters for women in crisis.

The constitution prohibits prostitution; however, there is no specific legislation against working as a prostitute. Trafficking in women for the purpose of prostitution was a serious problem, despite laws against procuring and kidnapping for purposes of sexual exploitation. There were reports that police abused prostitutes. Despite sporadic crackdowns on brothel operators in Phnom Penh, prostitution and related trafficking persisted. Estimates of the number of working prostitutes ranged from 14,725 to 18,250. Sex tourism was a problem, fueled by pervasive poverty and the perception of impunity.

The labor law has provisions against sexual harassment in the workplace but does not specify penalties. The International Labor Organization (ILO) reported that sexual harassment in the industrial sector was rare.

The constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice women had equal property rights, the same legal status to bring divorce proceedings, and equal access to education and some jobs; however, cultural traditions continued to limit the ability of women to reach senior positions in business and other areas. Women often were concentrated in low-paying jobs and largely were excluded from management positions. Men made up the vast majority of the military, police, and civil service.

The Ministry of Women's Affairs, mandated to protect the rights of women and promote gender equality in society, continued its *Neary Ratanak* (Women as Precious Gems) program. The program aimed to improve the image of women through gender mainstreaming, enhanced participation of women in economic and political life, and protection of women's rights.

Children

The constitution provides for children's rights, and the government made the welfare of children a specific goal. The government relied on international aid to fund most child social welfare programs, resulting in only modest funds for problems that affect children.

In 2002 the government instituted a modernized birth registration system administered by the MOI, which reported the program successfully registered 91 percent of births in 2006. The system did not include special outreach to minority communities. The government failed to register all births, resulting in discrimination, including the denial of public services. A study commissioned by the UNHCR on statelessness in the country stated that the birth registration process often excludes children of ethnic minorities and stateless persons. NGOs that provided services to disenfranchised communities reported that children without birth registration were often denied access to education and healthcare. They stated that later in life the same individuals may be unable to access employment, own property, vote, and use the legal system.

Children were affected adversely by an inadequate educational system. Education was free, but not compulsory, through grade nine. Many children left school to help their families in subsistence agriculture, began school at a late age, or did not attend school at all. In 2005 the Ministry of Education reported that 91 percent of eligible children were enrolled in primary school, but this number did not reflect attendance. After primary school, 26 percent of eligible students attended junior high and 9 percent attended high school. Despite a school construction program, schools were overcrowded and lacked sufficient equipment. In rural areas schools often provided only a few years of education. According to ministry data, 46 percent of schools lacked drinking water and 37 percent had no toilets. Teacher salaries were irregularly paid and inadequate to support a decent standard of living, leading to demands for unofficial payments from parents, which poor families could not afford. The government did not deny girls equal access to education; however, families with limited resources often gave priority to boys. In many areas schools were remote and transportation was a problem. This especially affected girls due to safety concerns in traveling between their homes and schools.

Boys and girls had equal access to state-provided medical care.

Child abuse was believed to be common, although statistics were not available. Child rape remained a serious problem; a local NGO reported 199 cases of rape and attempted rape committed on persons under age 18, two of which resulted in death. Twenty-nine of the cases involved children below age five. Sexual intercourse with a person under age 15 is illegal; however, child prostitution and trafficking in children occurred. During the year raids on brothels rescued underage girls trafficked for prostitution. The MOI reported arrests of seven foreign pedophiles. Some children were engaged in prostitution for survival, without third-party involvement.

A domestic NGO estimated that more than 1,200 street children in Phnom Penh had no relationship with their families and more than 10,000 children worked on the streets but returned to families in the evenings. An estimated 500 to 1,500 children lived with their families on the streets in provincial towns. The Ministry of Social Affairs and Youth Rehabilitations provided lower statistics, reporting 3,084 street children nationwide in 2005.

A study conducted by a local NGO stated that in September 2006 there were 37 children under the age of six living with their mothers in prison, and those children were subjected to mistreatment by prison guards and faced physical dangers from adult criminal cellmates. The children generally lacked proper nutrition and education.

Child labor was a problem in the informal sector of the economy.

Trafficking in Persons

The law prohibits trafficking in persons; however, the country was a source, destination, and transit country for men, women, and children trafficked for sexual exploitation and labor. A 2003 study estimated the number of trafficking victims in the sex industry to be 2,000, approximately 80 percent of whom were ethnic Vietnamese women and girls. Children were trafficked domestically for sexual exploitation and labor. Some Vietnamese women and girls were trafficked through the country for exploitation in the commercial sex trade in other Asian countries.

Children were trafficked to Thailand and Vietnam for begging, soliciting, street vending, and flower selling. The children frequently were placed into debt bondage to beg or sell, or they formed part of organized begging rings even when there was no debt or economic hardship involved. Women as well as children were trafficked to Malaysia and Thailand for sexual exploitation and forced labor in factories or as domestic servants, while men were trafficked for forced labor in the agriculture, fishing, and construction sectors.

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

Local traffickers covered specific small geographic areas and acted as middlemen for larger trafficking networks. Organized crime groups, employment agencies, and marriage brokers were believed to have some degree of involvement. Traffickers used a variety of methods to acquire victims. In many cases victims were lured by promises of legitimate employment or travel documents. In other cases acquaintances, friends, and family members sold the victims or received payment for helping deceive them. Young children, the majority of them girls, were often "pledged" as collateral for loans by desperately poor parents; the children were responsible for repaying the loan and the accumulating interest. A September report by the International Organization for Migration (IOM) stated that child domestic workers, particularly those used as collateral or placed into debt bondage, were more likely to be trafficked and to enter commercial sexually exploitive activities.

The law establishes a prison sentence of 15 to 20 years for a person convicted of trafficking in persons under 15 years of age; the penalty is 10 to 15 years for trafficking persons age 15 or older. According to the MOI, police investigated 529 cases of violence against women and children, including child sexual exploitation, rape, debauchery, and human trafficking. The investigations resulted in the arrest of 582 offenders, of whom 46 were arrested for cross border and domestic trafficking. However, NGOs continued to report the general failure of law enforcement and other government officials to act on tip-offs.

The Ministries of Interior, Women's Affairs, and Justice had primary responsibility to combat trafficking in persons. In April the government established a National Task Force to serve as an interministerial antitrafficking coordination body. The task force included an oversight body involving the top government officials. There was a Department of Anti-Human Trafficking and Juvenile Protection, and the MOI operated specialized antitrafficking divisions in all provinces and municipalities. While the government arrested and prosecuted traffickers and continued its support for prevention and protection programs through collaboration with foreign and domestic NGOs and international organizations, its antitrafficking efforts continued to be hampered by corruption and a weak judicial system. It was widely believed that some law enforcement and other government officials received bribes that facilitated the sex trade and trafficking in persons.

On March 16, the Sihanoukville Municipal Court acquitted the owner of O Pi Guesthouse and an employee of all charges and convicted another employee of a lesser charge of pimping, sentencing her to a two-year imprisonment plus a three-year suspended sentence. Erratic official behavior during the trial and the light penalty raised concerns that there was an exchange of bribes in return for light treatment of the case.

On March 21, the Phnom Penh Municipal Court acquitted Meng Say, former chief of the Phnom Penh antitrafficking unit, who was suspended in 2006 for extorting money from South Korean nationals. One police officer remained in jail in connection with the 2006 Phnom Penh Municipal Court case of three police officers sentenced to five to seven years in prison for trafficking-related corruption. Two of the officers appealed their cases; there was no court action on the appeal, and the two officers had not

started serving their sentences.

On August 1, the Sihanoukville Municipal Court tried a pimping case but acquitted the suspect, citing lack of evidence. Observers reported irregularities in the case hearing, and the case was under appeal at year's end.

On August 9, a royal decree directed the Supreme Council of the Magistracy to dismiss Appeals Court President Ly Vouch Leng. The directive was issued for her alleged acceptance of bribes in exchange for the release of human traffickers who were running the Chhay Hour II brothel in Phnom Penh. Three Supreme Council of Magistracy officials were also removed in connection with the case, and three appeals court judges and one deputy prosecutor received official letters of reprimand. Ly Vouch Leng was transferred to an unknown position in the Ministry of Justice; no charges were brought against her. The Ministries of Interior and Justice reported their investigations continued.

A legal advocacy NGO reported that five trafficking cases went to trial during the year, resulting in two convictions. For the same period, the MOI reported five convictions on human trafficking charges with sentences ranging from four to 15 years in prison. The Phnom Penh Municipal Court reported 49 convictions of human trafficking offenders from January to October. Police, court officials, and judges often did not separate victims from perpetrators during raids, arrests, and trials. In some cases officials spoke and acted as though victims were perpetrators. During a March 9 Sihanoukville trafficking trial, the presiding judge spoke harshly to underage trafficking victims in the courtroom and acquitted two of the alleged perpetrators.

The Ministry of Social Affairs and Youth Rehabilitations (MOSAVY) referred trafficking victims to NGOs, which provided most assistance to victims. The government participated as a partner in a number of these efforts; however, its contributions were severely hampered by limited resources. NGOs provided intake screening services to identify trafficking victims. Some victims were encouraged by NGOs and the MOI to file complaints against perpetrators; however, in the general climate of impunity, victim protection was problematic, and victims were known to be intimidated into abandoning their cases. Social stigma against women who were prostitutes, victims of sexual assault, or victims of sex trafficking made it difficult for victims to reintegrate into families, communities, and society.

The trafficking law contains no provisions to protect foreign victims from being charged under immigration laws, but during the year there were no reported cases of trafficking victims being treated as illegal immigrants. The MOSAVY worked with the IOM to repatriate trafficked victims from Thailand and Vietnam to Cambodia, and from Cambodia to Vietnam. However, repatriation to Vietnam continued to be a long and arduous process.

The MOSAVY repatriated from Thailand, Vietnam, and Malaysia 845 child and adult victims, as well as others vulnerable to becoming victims, and reintegrated them with their families. With financial and technical support from the IOM, the MOSAVY repatriated eight trafficked Vietnamese girls to Vietnam.

Both the government and international donors had programs to prevent child labor or remove children from labor. The country is a signatory to the Coordinated Mekong Ministerial Initiative against Trafficking, whose activities include ensuring the legal, social, and community protection of victims of trafficking; strengthening law enforcement capacity to combat trafficking; and building a comprehensive response involving all relevant ministries. Several ministries—including the Ministry of Women's Affairs and the Ministry of Tourism—had antitrafficking initiatives to reduce child labor. Donors supported programs to combat child labor implemented by the ILO and World Education, among others.

The MOSAVY worked with the UN Children's Fund (UNICEF) and local NGOs to manage community-based networks aimed at preventing trafficking.

Persons with Disabilities

There is no law explicitly prohibiting discrimination against persons with disabilities. The government does not require that buildings or government services be accessible to persons with disabilities. The government prohibits persons with disabilities from being teachers in public schools. On October 1, the government signed the UN Convention on the Rights of Persons with Disabilities.

Programs administered by various NGOs brought about substantial improvements in the treatment and rehabilitation of persons who had lost limbs, but they faced considerable societal discrimination, especially in obtaining skilled employment.

There are no legal limitations on the rights of persons with disabilities to vote or participate in civic affairs, but the government did not make any concerted effort to assist them in becoming more civically engaged. The MOSAVY is responsible for making policy to protect the rights of persons with disabilities and for rehabilitation and vocational skill training for persons with disabilities.

National/Racial/Ethnic Minorities

The rights of minorities under the 1996 nationality law are not explicit; constitutional protections are extended only to "Khmer people." Citizens of Chinese and Vietnamese ethnicity constituted the largest ethnic minorities. Ethnic Chinese citizens were accepted in society, but animosity continued toward ethnic Vietnamese, who were seen as a threat to the nation and culture. Some groups continued to make strong anti-Vietnamese statements. They complained of political control of the CPP by the Vietnamese government, border encroachment, and other problems for which they held ethnic Vietnamese at least partially responsible.

Indigenous People

The government often ignored efforts by indigenous communities to protect their ancestral lands and natural resources. In spite of the 2001 land law, which calls for the registration of communal lands of indigenous people, little was done to implement communal land titling. NGOs called for a moratorium on land sales and land concessions affecting indigenous communities. International and local NGOs were active in educating the indigenous communities about their land rights and providing legal representation in disputes.

On March 9, more than 200 indigenous villagers in Stung Treng Province protested the clearing of community forest land by four companies to which the government allegedly illegitimately granted timber concessions. The land had long been used by indigenous villagers for subsistence farming, hunting, and resin production. In May provincial authorities created a special committee to resolve the problem, but the committee did not take any action.

On March 15, more than 500 Jarai indigenous families in Ratanakiri Province demanded the removal of local officials who they alleged were involved in the fraudulent sale of more than 3,000 acres of their communal land. In September 2006 the villagers learned their land had been sold when they saw workers demarcating it as private property. The villagers submitted a complaint to provincial authorities, but authorities did not respond to the complaint.

In early August a Ratanakiri provincial official prevented Tampoun indigenous villagers from burying their dead on land that had served as their traditional burial ground since 1979. The provincial court stated it would arrest anyone who tried to bury bodies there, claiming the land belonged to the provincial finance department director. Authorities sanctioned a new burial ground approximately 500 yards from the traditional plot. The villagers enlisted the help of an NGO and planned to file a suit with the provincial court.

During the August 9 commemoration of the International Day for Indigenous Peoples, the UN High Commissioner for Human Rights noted the government's failure to protect and implement the rights of indigenous people to their lands, territories, and natural resources. The UN commissioner called for swift action to halt land grabbing in tribal areas, particularly the growing number of economic land concessions and mining licenses granted without community consultation.

Other Societal Abuses and Discrimination

Societal discrimination against those infected with HIV/AIDS remained a problem in rural areas; however, discrimination was moderated by HIV/AIDS awareness programs. There was no official discrimination against those infected with HIV/AIDS. There were no reported cases of sexual orientation discrimination in employment, housing, statelessness, or access to education or health care. However, homosexuality was typically treated with fear and suspicion, and there were few support groups based on sexual orientation where such cases could have been reported.

Section 6 Worker Rights

a. The Right of Association

The labor law provides private-sector workers in the formal economy the right to join the trade union of their choice without prior authorization. However, the government's enforcement of this right was selective. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations, although a few unions attempted to intimidate workers who wanted to withdraw. Unions may affiliate freely, but the law does not address explicitly their right to affiliate internationally. While the law applies to foreign workers, it does not apply to civil servants, including teachers, judges, and military personnel, or to workers in the informal sector. Personnel in the air and maritime transportation industries are not entitled to the full protections of the law but are free to form unions.

The vast majority of the country worked in the informal sector, primarily as subsistence rice farmers, vendors, or skilled or unskilled laborers. Only a small fraction, estimated at less than 1 percent, of the labor force was unionized. Unions were concentrated in the garment and footwear industries, where approximately 40 to 50 percent of the 350,000 workers were union members. The Cambodian Tourism and Service Workers Federation represented 4,000 hotel, casino, and airport workers. Of the 31 national labor federations and confederations, 26 were allied with the government, four were independent, and one had pro-opposition leanings.

The Cambodia Independent Teachers Association (CITA), registered as an "association" due to prohibitions on public sector unions, represented 8,150 of the country's 89,000 teachers. CITA marches and other protests were often forbidden, although the union reported no direct government interference in day-to-day activities. Some members feared that CITA affiliation could hamper their chance of career advancement, according to union officials. Another public sector association, the Cambodian Independent Civil Servants' Association (CICA), represented approximately 500 officials from ministries, provincial departments, and commune councils, out of approximately 100,000 civil servants nationwide. CICA leaders alleged that fears of harassment or demotion prevented other civil servants from joining.

Some independent and pro-opposition unions and federations complained of unnecessary delays and costs in registering with the government.

Unions were generally seen as slowly gaining strength, but many were not able to adequately represent member interests due to insufficient resources, training, and experience. In addition, corruption plagued unions, employers, and government officials, hampering legitimate industrial relations. Violence, harassment, and intimidation between rival unions were common.

On February 24, two unidentified men shot and killed local union leader Hy Vuthy as he left the Suntex garment factory after completing his night shift. Since 2005 Suntex and Bright Sky factories, which share a compound, have been the scene of fierce interunion rivalry and violence. Hy Vuthy was a member of the country's largest union, the Free Trade Union of Workers in the Kingdom of Cambodia (FTUWKC), which alleged that he might have been killed because of his labor work. No suspects were arrested. Two other FTUWKC leaders--national FTUWKC president Chea Vichea and local union leader Ros Sovannareth--were killed in 2004.

In some factories persons employed in management appeared to have established their own unions, supported promanagement unions, or compromised union leaders. Union leaders from across the political spectrum complained that the Khmer Youth Federation of Trade Unions habitually threatened strikes to extort money from management and threatened and harassed workers from other unions. Independent union leaders complained that the progovernment Cambodian Coalition of Trade Unions frequently intervened in the affairs of other unions, extorted money from management in exchange for discouraging workers from conducting legal strikes and demonstrations, and threatened rival union leaders.

Enforcement of the right of association and freedom from antiunion discrimination was poor. Government enforcement was hampered by a lack of political will and by confused financial and political relationships with employers and union leaders. The government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay staff adequate salaries. The Ministry of Labor and Vocational Training (MOLVT) often decided in favor of employees but rarely used its legal authority to penalize employers who defied its orders, instead referring many cases to an arbitration council.

There were credible reports of antiunion harassment by employers, including the dismissal of union leaders, in garment factories and other enterprises. Employers sometimes used the courts to dismiss or punish union leaders. In two cases union leaders were charged with inciting workers to strike, destroying private property, and attempting to incite workers to commit assault. At year's end the cases were pending. On several occasions dismissed union leaders accepted cash settlements after unsuccessfully appealing to the government to enforce laws requiring their reinstatement. At other times the government upheld labor rights. For example, the MOLVT formally warned 1,032 companies of legal violations, fined 10 companies, and charged five companies with violation of the labor law and regulations. The MOLVT sent 83 cases of unresolved labor disputes to the Arbitration Council.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively, but the government's enforcement of these rights was inconsistent. Wages were generally set by market forces, except in the case of civil servants, whose wages were set by the government. Garment-sector workers were guaranteed a minimum wage of \$50 per month (210,000 riels).

During the year there were 19 collective bargaining agreements registered with the MOLVT. Most were conciliation agreements that did not meet international collective bargaining standards. Only six genuine collective bargaining agreements existed within the garment industry, 10 at hotels, and one covering contract workers at the two international airports.

A 2001 regulation establishes procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The regulation also establishes requirements for employers and unions regarding collective bargaining and provides union leaders with additional protection from dismissal. The Bureau of Labor Relations is responsible for facilitating the process of union registration and certification of "most representative status" for unions, which entitles a union representing an absolute majority of workers in a given enterprise to represent all of the workers in that establishment. However, the "most representative" registration process was considered cumbersome, and international observers reported that government lists of "most representative unions" included management-controlled unions and unions whose "most representative" status should have expired years before. The government began reexamining its "most representative" certification process with support from international organizations and a diplomatic mission.

The law provides for the right to strike and protects strikers from reprisal. The law stipulates that strikes can be held only after several requirements have been met, including the failure of other methods of dispute resolution (such as negotiation, conciliation, and arbitration), a secret-ballot vote of union membership, and a seven-day advance notice to the employer and the MOLVT.

The MOLVT reported that 82 strikes occurred during the year. International observers, employers, and many union leaders agreed that almost no strikes fulfilled all prestrike legal requirements. Other unions complained that a severe lack of MOLVT involvement led to industrial strikes.

The government allowed most strikes held at factories but denied worker requests to hold protest marches outside of the factory district. Police intervention in strikes generally was minimal and restrained, even in those cases where property damage occurred. Police presence at the few marches that occurred tended to be excessive and often included a specialized police intervention unit.

On May 4, four workers and five security guards were injured when security guards inside the L.A. garment factory tried to prevent workers from leaving the factory to strike. The strike, which involved 4,000 workers, began two days earlier when workers demanded that a manager be dismissed for insulting and mistreating them.

On May 21, more than 100 provincial police officers violently dispersed approximately 200 striking workers at the River Rich garment factory in Kandal Province. Workers said police beat several protesters, but police denied causing any injuries. The strike began when management reneged on a promise to rehire 10 union activists whose contracts had not been renewed. Following the strike, management threatened to sue three union representatives for inciting workers to hold an illegal strike and for discrimination but later dropped the case.

On November 29, approximately 200 police officers violently dispersed a strike by more than 2,000 Fortune garment factory workers who protested reductions in bonuses and short-term contracts. Police accused the strikers of blocking a road, creating disorder, throwing stones, and injuring police officers. Workers said their strike was peaceful and that violent police repression—including firing guns into the air and using tear gas—resulted in three injured workers. Police detained four workers, releasing them later the same day.

There were no developments in the August 2006 case of three factory-level union leaders affiliated with the FTUWKC convicted of charges of illegal human confinement. After spending one month and four days in jail in 2006, the workers were released.

In spite of legal provisions protecting strikers from reprisals, there were credible reports that workers were dismissed on spurious grounds after organizing or participating in strikes. While most strikes were illegal, participating in an illegal strike was not by itself a legally acceptable reason for dismissal. In some cases strikers were pressured by employers to accept compensation and leave their employment. There are potential remedies for such dismissals, although none was particularly effective. The MOLVT can issue reinstatement orders, but these often provoked management efforts to pressure workers into resigning in exchange for a settlement. Collective disputes, such as when multiple employees are dismissed, can be brought before the Arbitration Council for a nonbinding decision. Individual disputes can be brought before the courts, although the judicial system was neither impartial nor transparent. Some unions urged the government to expand the role of the Arbitration Council to include individual and collective interest disputes and to make its decisions binding.

There continued to be confusion about the overlapping roles of labor unions and elected shop stewards. According to regulation, trade union leaders have roles comparable to those of shop stewards, and certain union officers have protection from dismissal within an enterprise. However, employers did not always respect these protections.

There were no special laws or exemptions from regular labor laws in export processing zones (known as special economic 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, almost exclusively in the informal sector. There were reports of isolated cases of forced labor by domestic servants. Forced child labor was a serious problem in the commercial sex industry.

Involuntary overtime remained widespread. Under the law, legal overtime work cannot exceed two hours daily and must be voluntary; however, in practice overtime was often extended beyond the legal limit, and employers used coercion to force employees to work. Workers often faced fines, dismissal, or loss of premium pay if they refused to work overtime.

d. Prohibition of Child Labor and Minimum Age for Employment

The government has adopted laws to protect children from exploitation in the workplace; however, enforcement was often weak. The law establishes 15 years as the minimum age for employment and 18 years as the minimum age for hazardous work. The law permits children between 12 and 15 to engage in "light work" that is not hazardous to their health and does not affect school attendance. A 2006 study by the World Bank, the ILO, and UNICEF estimated that there were 1.5 million children engaged in illegal labor, including 750,000 children younger than 12 years, 500,000 children ages 12 to 14 engaged in "nonlight" economic activity, and more than 250,000 children ages 15 to 17 working in prohibited hazardous sectors or working more than 43 hours per week.

No aspect of the law prohibiting child labor was adequately enforced in the formal employment sector. No employer was prosecuted for violating laws against child labor. The MOLVT has responsibility for child labor issues in both the formal and informal sectors of the economy, but its labor inspectors played no role in the informal sector or in enforcing the law in illegal industries. Within the formal sector, labor inspectors conducted routine inspections of some industries, such as garment manufacturing (where the incidence of child labor is negligible), but in some industries with the highest child labor risk, labor inspections were entirely complaint driven.

The constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry. Law enforcement agencies failed to combat child prostitution in a sustained, consistent manner. Widespread corruption, lack of transparency, inadequate resources, and staffing shortages remained the most challenging obstacles.

e. Acceptable Conditions of Work

The law requires the MOLVT to establish a garment-sector minimum wage based on recommendations from the Labor Advisory Committee. There was no minimum wage for any other industry. The minimum wage for the sector was \$45 to \$50 (189,000 to 210,000 riels) per month. Garment-sector employers almost universally paid regular workers at least the minimum wage, although casual workers were often paid less. Garment workers earned an average wage of \$70 to \$80 (294,000 to 336,000 riels) per month, including overtime and bonuses. Prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living, although garment-sector wages were generally higher than wages in the informal economy. Civil service salaries also were insufficient to provide a decent standard of living, requiring government officials to secure outside sources of income, in many cases by obtaining second jobs or accepting bribes.

On June 8, despite strong protests from some unions, the National Assembly amended the labor law to establish a nightshift rate of 130 percent of daytime wages. Before this amendment, customary practice was to pay nightshift workers 200 percent of daytime wages, and few factories operated night shifts due to the high salary cost.

The law provides for a standard legal workweek of 48 hours, not to exceed eight hours per day. The law stipulates time-and-a-half for overtime and double time if overtime occurs at night, on Sunday, or on a holiday. Employees are allowed to work up to two hours of overtime each day. However, the government did not enforce these standards effectively. Workers reported that overtime was frequently excessive and sometimes mandatory. Similarly, outside the garment industry, regulations on working hours were rarely enforced.

The law states that the workplace should have health and safety standards adequate to ensure workers' well-being. The government enforced existing standards selectively, in part because it lacked trained staff and equipment. Work-related injuries and health problems were common. Most large garment factories producing for

markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working conditions in some small-scale factories and cottage industries were poor and often did not meet international standards. Penalties are specified in the law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who removed themselves from unsafe working conditions risked loss of employment.



[BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



China (includes Tibet, Hong Kong, and Macau)

Country Reports on Human Rights Practices - [2007](#)
Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

(The section for [Tibet](#), the report for [Hong Kong](#), and the report for [Macau](#) are appended below.)

The People's Republic of China (PRC) is an authoritarian state in which, as specified in its constitution, the Chinese Communist Party (CCP) is the paramount source of power. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 25-member political bureau (Politburo) of the CCP and its nine-member standing committee. Hu Jintao holds the three most powerful positions as CCP general secretary, president, and chairman of the Central Military Commission. The party's authority rested primarily on the government's ability to maintain social stability; appeals to nationalism and patriotism; party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, and controls were tightened in some areas, such as religious freedom in Tibetan areas and in the Xinjiang Uighur Autonomous Region (XUAR); freedom of speech and the media, including the Internet; and the treatment of petitioners in Beijing. As in previous years, citizens did not have the right to change their government. The government tightened restrictions on freedom of speech and the press, particularly in anticipation of and during sensitive events, including increased efforts to control and censor the Internet. Nongovernmental organizations (NGOs), both local and international, continued to face intense scrutiny and restrictions. The government continued its severe cultural and religious repression of minorities, with some tightening of control in the XUAR, and an increased level of religious repression in Tibetan areas. The government stepped up efforts to rid Beijing of petitioners seeking redress for various grievances. Other serious human rights abuses included extrajudicial killings, torture and coerced confessions of prisoners, and the use of forced labor, including prison labor. The government continued to monitor, harass, detain, arrest, and imprison journalists, writers, activists, and defense lawyers and their families, many of whom were seeking to exercise their rights under law. The party and state exercised strict political control of courts and judges, conducted closed trials and carried out administrative detention. Executions often took place on the day of conviction or immediately after the denial of an appeal. A lack of due process and restrictions on lawyers further limited progress toward rule of law. Individuals and groups, especially those deemed politically sensitive by the government, continued to face tight restrictions on their freedom to assemble, their freedom to practice religion, and their freedom to travel. The government continued its coercive birth limitation policy, in some cases resulting in forced abortion and sterilization.

The government failed to protect refugees adequately, and the forced repatriation of North Koreans continued to be a grave problem. Serious social conditions that affected human rights included endemic corruption, trafficking in persons, and discrimination against women, minorities, and persons with disabilities. In the XUAR, trials of Uighurs charged with separatism continued.

The government pursued some important criminal and judicial reforms. In January the country's highest court, the Supreme People's Court (SPC), reassumed the death penalty review power from provincial courts in cases handed down for immediate execution, a power that had devolved to provincial high courts in 1980. Also in January the government implemented temporary rules for foreign journalists, which eliminated the requirement for journalists to seek approval from authorities before conducting interviews. The Foreign Correspondents Club of China (FCCC) reported that although the regulations improved overall reporting conditions for foreign journalists, problems with enforcement of the regulations remained a challenge, and there were over 180 reports of interference, some of which included plainclothes thugs intimidating or physically assaulting foreign journalists.

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 the government and its agents reportedly committed arbitrary or unlawful killings. No official statistics on deaths in custody were available. On January 5, 18 persons were killed and 17 were arrested during a raid at a location in the XUAR that Chinese officials called a terrorist training base. On February 27, Xu Hongmei and Shen Zili, two women who were arrested in January for Falun Gong activities, died after they were reportedly tortured by security forces. On March 22, local procuracy officials detained a Guilin judge, Li Chaoyang, on bribery allegations. After family members learned that Li was dead, they examined the body and found that Li was missing several teeth and had a stitched-up face wound. On May 28, local procuracy officials detained Lianyungang City electric utility official Liang Xuping, and Liang subsequently died. Liang's body was bruised, but officials claimed Liang died of a heart attack.

There were no developments in the investigation of the 2006 shooting of Tibetan nun Kelsang Namtso, who was shot and killed when People's Armed Police at the Nangpa La pass fired at a group of approximately 70 Tibetans, or the 2005 police killing of at least three protesters in Dongzhou Village, Guangdong Province.

Trials involving capital offenses sometimes took place under circumstances involving severe lack of due process and with no meaningful appeal. Some executions took place on the day of conviction or failed appeal. Executions of Uighurs whom authorities accused of separatism, but which some observers claimed were politically motivated, were reported. On February 8, authorities executed Ismail Semed, an ethnic Uighur from the XUAR, following 2005 convictions for "attempting to split the motherland" and other counts related to possession of firearms and explosives.

b. Disappearance

Human rights defender Gao Zhisheng, who was detained and questioned several times over the past two years, was last seen September 22 in the presence of municipal security officials at his Beijing home. Gao wrote a letter addressing human rights in China to a foreign government, which became public in the days preceding his disappearance. In September a group of 21 farmers reportedly disappeared in Beijing after traveling from Chengdu to petition the government in a land compensation case. Tibetan Web master Tsewangnorbu has been missing since Gansu province security authorities shut down his Web site in 2005.

At year's end the government still had not provided a comprehensive, credible accounting of all those killed, missing, or detained in connection with the violent suppression of the 1989 Tiananmen demonstrations.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. However, in November 2006 the Supreme People's Procuratorate (SPP) Deputy Secretary Wang Zhenchuan acknowledged that illegal interrogation by "atrocious torture" existed in

local judicial practice throughout China and that almost all mishandled criminal cases in the previous year involved the "shadow of illegal interrogation." Wang estimated that at least 30 wrongful convictions were issued each year because of torture. In addition there continued to be frequent reports that police and other elements of the security apparatus employed widespread torture and degrading treatment when dealing with some detainees and prisoners.

During the year there were reports that officials used electric shocks, beatings, shackles, and other forms of abuse. In February and March legal advisor and rights activist Guo Feixiong (also known as Yang Maodong) reportedly suffered repeated torture, including electric shocks and being tied to a "tiger bench" for four hours. When on a "tiger bench" the victim reportedly sits on a bench with legs tied stretched out straight on the bench and hands tied behind a vertical back support. Bricks or other hard objects are then pushed under the victim's legs or feet, causing the legs to bend upwards, sometimes until they break. The abuse reportedly drove Guo to attempt suicide. In June Guo Feixiong's wife reportedly sent an open letter to UN Special Rapporteur on Torture Manfred Nowak detailing her husband's abuse in prison, which included beatings with electric police batons when Guo refused to make a confession. On September 29, rights defender Li Heping reportedly was detained for six hours by plainclothes assailants who beat and tortured him with cattle prods before releasing him. In October a recently released cellmate of land activist Yang Chunlin reported that Yang was tortured in prison, including having his legs and arms stretched and chained to four corners of an iron bed for days.

In June 2006 authorities detained and beat Alim and Ablikim, the sons of prominent Uighur human rights activist Rebiya Kadeer, and Alim reportedly confessed to the charges against him after being tortured by security officials. In 2006 Beijing-based petitioner leader Ye Guozhu reportedly was tortured and abused in prison, including beatings with electric batons, suspension from the ceiling by his arms, and shackled and forced to sit in extreme positions for extended periods of time. In June the Guangzhou Intermediate Court convicted a police officer of beating to death a fraud suspect, Wang Weiqing, in 2002. Prosecutors determined that 40 officers in the local public security bureau (PSB) conspired to conceal the beating. Many alleged acts of torture occurred in pretrial criminal detention centers or reeducation-through-labor centers.

In March 2006 UN Special Rapporteur Nowak reaffirmed earlier findings that torture, although on a decline--particularly in urban areas--remained widespread, and that procedural and substantive measures were inadequate to prevent torture. Nowak reported that beatings with fists, sticks, and electric batons continued to be the most common forms of torture. He also found that prisoners continued to suffer cigarette burns, prolonged periods of solitary confinement, and submersion in water or sewage, and that they were made to hold extreme positions for long periods, were denied medical treatment, and were forced to do hard labor. Death row inmates were shackled or handcuffed 24 hours per day and systematically abused to break their will and force confessions. According to Nowak, officials specifically targeted for abuse house church groups, Falun Gong adherents, Tibetans, and Uighur prisoners. Nowak reported that Falun Gong practitioners accounted for 66 percent of victims of alleged torture while in government custody. Since the crackdown on Falun Gong began in 1999, estimates of the number of Falun Gong adherents who died in custody due to torture, abuse, and neglect ranged from several hundred to a few thousand.

Sexual and physical abuse and extortion occurred in some detention centers. Falun Gong activists reported that police raped female practitioners, including in 2005 at the Dongchengfang police station in Tunzhou City, Hebei Province, where two women were allegedly raped while in detention.

According to foreign researchers, the country had 20 anfang institutions (high-security psychiatric hospitals for the criminally insane) directly administered by the Ministry of Public Security. Persons committed to these institutions had no mechanism for objecting to public security officials' determinations of mental illness. Some dissidents, persistent petitioners, and others were housed with mentally ill patients in these institutions. Patients in these hospitals were reportedly given medicine against their will and forcibly subjected to electric shock treatment. The regulations for committing a person to an anfang facility were not clear. Political activists, underground religious believers, persons who repeatedly petitioned the government, members of the banned China Democratic Party (CDP), and Falun Gong adherents reportedly were incarcerated in such facilities during the year. Activists sentenced to administrative detention also reported they were strapped to beds or other devices for days at a time, beaten, forcibly injected or fed medications, and denied food and use of toilet facilities.

From January to May prosecutors nationwide investigated 2,808 cases of dereliction of duty and infringement of rights by officials, involving 3,470 persons. This represented an 8.3 percent increase in cases from the same period in 2006. In 2006 the SPP and the courts issued directives to eliminate interrogation through torture. By September 2,829 procuratorates throughout China had begun audio and video taping police interrogations, in some cases to prevent coerced confessions. Beginning in September Beijing and several other cities launched campaigns providing that police officers who obtain coerced confessions can be suspended.

Prison and Detention Center Conditions

According to 2005 official statistics, the Ministry of Justice administered more than 700 prisons with a population of more than 1.8 million inmates. In addition 30 jails for juveniles held approximately 22,000 juvenile offenders. The country also operated hundreds of administrative detention centers, which were run by security ministries and administered separately from the formal court system.

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation. Inadequate prison capacity was an increasing problem in some areas. Food often was inadequate and of poor quality, and many detainees relied on supplemental food and medicines provided by relatives; some prominent dissidents were not allowed to receive such goods.

Many inmates in penal and reeducation-through-labor facilities were required to work, with minimal or no remuneration. In some cases prisoners worked in facilities directly connected with penal institutions; in other cases they were contracted to nonprison enterprises. Former prison inmates reported that workers who refused to work in some prisons were beaten. Facilities and their management profited from inmate labor.

In January Ministry of Health spokesman Mao Qunan reportedly acknowledged that the government harvested organs from executed prisoners. On May 1, new regulations came into effect that include a ban on the trade of human organs and on live organ transplants from persons under the age of 18. The regulations also stipulate that the donation of human organs for transplant should be free and voluntary. However, the new regulations make no specific reference to the extraction of organs from death penalty prisoners.

Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment. On July 1, Shanghai petitioner Chen Xiaoming died the day he was released from custody on medical parole. According to media reports, authorities refused earlier requests by the family for medical parole and only allowed the family to provide Chen with medication one time during his detention. Labor activist Yao Fuxin remained in prison in very poor health, and authorities denied his family's request for medical parole. Labor union leader Wang Sen remained in prison and was also reportedly in poor health. Wang applied for medical parole but was also denied. During the year cyber dissident He Depu's health reportedly deteriorated significantly due to medical neglect and maltreatment. However, prison officials stated that his condition would have to deteriorate further before he could be considered for medical parole. Journalist Ching Cheong's health also deteriorated, and in August the Hong Kong Journalists Association sent an open letter to President Hu Jintao urging authorities to grant him medical parole. Many other prisoners with serious health concerns remained in prison at year's end. Prison officials often denied privileges, including the ability to purchase outside food, make telephone calls, and receive family visits, to those who refused to acknowledge guilt.

Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons. Beating deaths occurred in administrative detention and reeducation-through-labor facilities.

The law requires juveniles to be held separately from adults, unless facilities are insufficient. In practice children sometimes were held with adult prisoners and required to work. Political prisoners were segregated from each other and placed with common criminals, who sometimes beat political prisoners at the instigation of guards. Newly arrived prisoners or those who refused to acknowledge committing crimes were particularly vulnerable to beatings.

The government generally did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to local and international human rights organizations, media groups, and the International Committee of the Red Cross (ICRC).

d. Arbitrary Arrest or Detention

Arbitrary arrest and detention remained serious problems. The law permits police and security authorities to detain persons without arresting or charging them. Because the government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to arbitrary arrest or detention. According to 2005 official statistics, 500,000 persons were held in 310 reeducation-through-labor camps. In 2004 special administrative detention facilities held more than 350,000 offenders.

Role of the Police and Security Apparatus

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. The Ministries of State Security and Public Security and the People's Armed Police were responsible for internal security. SPP and SPC officials admitted that courts and prosecutors often deferred to the security ministries on policy matters and individual cases. The SPP was responsible for the investigation of corruption and duty crimes. The PLA was responsible for external security but also had some domestic security responsibilities.

The Ministry of Public Security (MPS) coordinates the country's law enforcement, which is administratively organized into local, county, provincial, and specialized police agencies. Recent efforts have been made to strengthen historically weak regulation and management of law enforcement agencies; however, judicial oversight was limited, and checks and balances were absent. Corruption at the local level was widespread. Police officers reportedly coerced victims, took individuals into custody without just cause, arbitrarily collected fees from individuals charged with crimes, and mentally and physically abused victims and perpetrators.

The SPP acknowledged continuing widespread abuse in law enforcement. In July 2006 the SPP issued new standards for prosecuting official abuses of power. Domestic news media reported the convictions of several public security officials who had beaten to death suspects or prisoners in their custody. Nonetheless, investigation of misconduct typically only came in response to publicity, public pressure, and persistent efforts by relatives of victims to petition the government. In July 2006 an SPP spokesperson said there were many abuse of power cases that the procuratorates did not dare handle.

Arrest and Detention

Public security organs do not require court-approved warrants to detain suspects under their administrative detention powers. After detention the procuracy can approve formal arrest without court approval. According to the law, in routine criminal cases police can unilaterally detain persons for up to 37 days before releasing them or formally placing them under arrest. After a suspect is arrested, the law allows police and prosecutors to detain a person for up to seven months while public security organs further investigate the case. Another one and one-half months of detention are allowed where public security organs refer a case to the procuratorate to decide whether to file charges. If charges are filed, authorities can detain a suspect for an additional one and one-half month period between filing and trial. However, in practice the police sometimes detained persons beyond the time limits stipulated by law. In some cases, investigating security agents or prosecutors sought repeated extensions, resulting in pretrial detention of a year or longer. The trial of *New York Times* researcher Zhao Yan was delayed almost two years before finally convening in June 2006. It was uncertain how many other prisoners were similarly detained. The criminal procedure law allows detainees access to lawyers before formal charges are filed, although police often limited such access.

The criminal procedure law requires a court to provide a lawyer to a defendant who is blind, deaf, mute, a minor, or may be sentenced to death, if the defendant has not already retained a lawyer, whether or not the defendant is indigent. Courts may also provide lawyers to other criminal defendants who cannot afford them, although courts often do not appoint counsel in such circumstances.

Detained criminal suspects, defendants, their legal representatives, and close relatives are entitled to apply for bail; however, in practice few suspects were released on bail pending trial. The government used incommunicado detention. The law requires notification of family members within 24 hours of detention, but individuals often were held without notification for significantly longer periods, especially in politically sensitive cases. Under a sweeping exception, officials were not required to provide notification if doing so would "hinder the investigation" of a case. In some cases police treated those with no immediate family more severely.

Administrative detention was frequently used to intimidate political activists and prevent public demonstrations. During the year individuals were assigned to administrative detention without charge, trial, or judicial review. Efforts to reform or abolish the reeducation-through-labor system remained stalled. In March 2006 the New Public Order Administrative Punishment Law went into effect, which provides for review of detention decisions but also creates 165 new offenses subject to administrative punishment. According to reports there were concerns that authorities were expanding the use of punitive administrative detention rather than reforming or abolishing it.

In May 2006 the SPP acknowledged that unlawful extended detentions remained a problem and that authorities misused legal provisions to hide this. A nationwide survey found that, between January 2003 and September, 33,643 persons were detained longer than provided by law at some stage of the investigation, prosecution, or trial process. A number of individuals in politically sensitive cases were held for periods longer than the time authorized by law. In some cases investigating security agents or prosecutors sought repeated extensions, resulting in pretrial detention of a year or longer.

Citizens who were reportedly detained with no or severely delayed notice included Pan Blue Alliance leader Sun Buer, who police in May took from his home and held incommunicado. On August 24, PSB officials arrested writer and rights activist Lu Gengsong following publication of articles critical of authorities. Lu was held in detention for more than a month, and on September 29 he was formally charged with "inciting subversion of state power." On August 21, activist Yue Ming was detained for two weeks without charge for posting online messages calling a meeting for people upset over high housing costs.

The law permits nonjudicial panels, called labor reeducation panels, to sentence persons without trial to three years in reeducation-through-labor camps or other administrative detention programs. The labor reeducation committee is authorized to extend a sentence up to one year. Defendants could challenge reeducation-through-labor sentences under the administrative litigation law and appeal for a reduction in, or suspension of, their sentences. However, appeals rarely succeeded. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for prostitutes and those soliciting prostitutes) and "custody and training" (for minors who committed crimes). Administrative detention was used to intimidate political activists and prevent public demonstrations. Special reeducation centers were used to detain Falun Gong practitioners who had completed terms in reeducation-through-labor but whom authorities decided to continue detaining.

Authorities arrested persons on charges of revealing state secrets, subversion, and common crimes to suppress political dissent and social advocacy. Citizens also were detained and prosecuted under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, and government activity. Information could retroactively be classified a state secret by the government.

During the year human rights activists and defenders, Falun Gong practitioners, domestic and foreign journalists, unregistered religious figures, and former political prisoners and their family members were among those targeted for arbitrary detention or arrest.

The government continued to use house arrest as a nonjudicial punishment and control measure against dissidents, former political prisoners, family members of political prisoners, petitioners, underground religious figures, and others it deemed politically sensitive. House arrest encompassed varying degrees of stringency but sometimes included complete isolation in one's own home or another location under lock and guard. In some cases house arrest involved constant monitoring, but the target of house arrest was occasionally permitted to leave the home to work or run errands. When outside the home, the subject of house arrest was usually, but not always, under surveillance. In some instances security officials assumed invasive positions within the family home, rather than monitoring from the outside.

In March rights activist Hu Jia was released after spending 214 days under house arrest. On May 18, Hu and his wife, activist Zeng Jinyan, were placed under house arrest immediately before leaving on a trip overseas to speak about human rights. In November Hu Jia participated by webcam in a European Parliament hearing on human rights conditions in China. Hu was detained on December 27 on suspicion of inciting subversion of state authority. That same day, police reportedly placed Zeng

Jinyan under house arrest with the couple's newborn child. Bao Tong, the former aide to Zhao Ziyang (who died in 2005 after spending more than 15 years under house arrest), remained under similar surveillance in his home; restrictions on Bao eased somewhat as he was allowed to give media interviews and to travel to his hometown during the year. In February local authorities blocked Dr. Gao Yaojie, a prominent HIV/AIDS activist, from traveling overseas to receive a human rights award by placing her under house arrest. Following international pressure, Gao was permitted to travel. In August Yuan Weijing was prevented from leaving the country to receive an award on behalf of her husband, legal activist Chen Guangcheng. Despite being released from prison in June 2006, activist lawyer Zheng Enchong was placed under house arrest for over a year and continued to be under round-the-clock surveillance. Several underground Catholic priests and bishops were under house arrest for varying periods during the year. The longest serving among them may be Bishop Su Zhimin, who has reportedly been detained in a form of house arrest in Baoding, Hebei Province, since 1997. An unverified press report circulated in June 2006 stated that Bishop Su had died in custody. The government has not responded to inquiries about Bishop Su.

Police continued the practice of placing under surveillance, harassing, and detaining citizens around politically sensitive events, including before the second anniversary of Zhao Ziyang's death in January, the plenary sessions of the National People's Congress (NPC) and Chinese People's Political Consultative Conference (CPPCC) in March, and the 17th Communist Party Congress in October. Authorities in the XUAR used house arrest and other forms of arbitrary detention against those accused of the "three evils" of extremism, "splittism," and terrorism. Because authorities failed to distinguish carefully among peaceful political activities, "illegal" religious activities, and violent terrorism, it was difficult to determine whether raids, detentions, arrests, or judicial punishments were targeted at those peacefully seeking political goals, those seeking worship, or those engaged in violence. Others held under house arrest for varying periods during the year included Tiananmen activist Qi Zhiyong, rights lawyer Gao Zhisheng, and democracy activist Liu Anjun.

e. Denial of Fair Public Trial

The law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice the judiciary was not independent. It received policy guidance from both the government and the CCP, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the government and CCP frequently interfered in the judicial system and dictated court decisions. Trial judges decide individual cases under the direction of the adjudication committee in each court. In addition the CCP's law and politics committee, which includes representatives of the police, security services, procuratorate, and courts, had the authority to review and influence court operations at all levels of the judiciary; in some cases the committee altered decisions. People's congresses also had authority to alter court decisions, but this happened rarely.

Corruption often influenced judicial decision making, and safeguards against corruption were vague and poorly enforced. In 2006 292 judges were investigated for "illegally handling cases," which most often means taking bribes or abusing power; 109 were found criminally liable. Local governments appointed judges at the corresponding level of the judicial structure. Judges received their court finances and salaries from these government bodies and could be replaced by them. Local authorities often exerted undue influence over the judges they appointed and financed. Several high-profile corruption cases involved procuracy officials. In August the Anhui provincial deputy procurator-general was removed from his position after taking a government trip overseas based on a fraudulent invitation letter.

Courts lacked the independence and authority to rule on the constitutionality of laws. The law permits organizations or individuals to question laws and regulations they believe contradict the constitution, but a constitutional challenge first requires consultation with the body drafting the questioned regulation and can only be appealed to the NPC. Accordingly, lawyers had little or no opportunity to use the constitution in litigation.

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

The CCP used a form of discipline known as shuang gui for violations of party discipline, but there were reports of its use against nonparty members. Shuang gui is similar to house arrest and can be authorized without judicial involvement or oversight. Shuang gui requires the CCP party member under investigation to submit to questioning at a designated place and time. According to regulations of the Central Discipline Inspection Commission (CDIC) governing shuang gui, corporal punishment is banned, the member's dignity must be respected, and he or she is regarded as a comrade unless violations are proved. Absent any legal oversight, it is unclear how these regulations were enforced in practice. In September 2006 Zeng Jinchun, secretary of the discipline inspection committee in Chenzhou City, Hunan Province, was removed for abusing his shuang gui authority by accepting bribes.

Trial Procedures

Trials took place before a judge, who often was accompanied by "people's assessors," lay persons hired by the court to assist in decision making. According to statistics published during the year, there were 55,681 people's assessors. According to law, people's assessors had authority similar to judges, but in practice they deferred to judges and did not exercise an independent jury-like function.

The law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation, although police frequently interfered with this right. Individuals who faced administrative detention do not have the right to seek legal counsel.

The government expanded the scope of legal aid and required authorities to notify criminal defendants of their right to apply for legal aid. Both criminal and administrative cases remained eligible for legal aid, although 70 percent or more of criminal defendants still went to trial without a lawyer. According to the Ministry of Justice, during the first half of the year legal aid was granted in 124,800 cases. The number of government lawyers providing legal aid remained inadequate to meet demand. Nonattorney legal advisors and government employees provided the only legal aid options in many areas. According to government statistics, more than 12,155 employees provided legal aid at 3,171 legal aid centers. During 2006 courts waived more than \$169.4 million (RMB 1.21 billion) in litigation costs.

Government-employed lawyers often refused to represent defendants in politically sensitive cases, and defendants frequently found it difficult to find an attorney. When defendants were able to retain counsel in politically sensitive cases, government officials sometimes prevented effective representation of counsel. Officials deployed a wide range of tactics to obstruct the work of lawyers representing sensitive clients, including unlawful detentions, disbarment, intimidation, refusal to allow a case to be tried before a court, and physical abuse. According to the law, defense attorneys can be held responsible if their client commits perjury, and prosecutors and judges have wide discretion to decide what constitutes perjury. In February 2006 lawyer Tang Jingling was beaten by thugs after visiting Guo Feixiong. Police refused to investigate the incident. In April 2006 Tang, who had begun practicing law at a second firm, was stripped of his license to practice law and dismissed from that law firm. In some sensitive cases, lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to speak during trials. In practice criminal defendants often were not assigned an attorney until a case was brought to court. For example, officials detained prominent rights attorney Gao Zhisheng in August 2006 on "suspicion of involvement in criminal activity" and subsequently deprived Gao of his right to counsel by obstructing efforts to formalize Gao's representation. Officials later claimed that Gao declined representation by counsel. Even in nonsensitive criminal trials, only one in seven defendants reportedly had legal representation.

The mechanism that allows defendants to confront their accusers was inadequate; the percentage of witnesses who came to court in criminal cases was less than 10 percent and as low as 1 percent in some courts. According to one expert, only 1 to 5 percent of trials involved witnesses. In most criminal trials, prosecutors read witness statements, which neither the defendant nor his lawyer had an opportunity to question. Approximately 95 percent of witnesses in criminal cases did not appear in court to testify, in part due to hardship or fear of reprisals. Although the criminal procedure law says pretrial witness statements cannot serve as the sole basis for conviction, officials relied heavily on such statements to support their cases. Defense attorneys had no authority to compel witnesses to testify or to mandate discovery, although they could apply for access to government-held evidence relevant to their case. In practice pretrial access to information was minimal, and the defense often lacked adequate opportunity to prepare for trial.

The criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. The conviction rate for first-instance criminal

cases was above 99 percent in 2006. In many politically sensitive trials, which rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. There was an appeals process, but appeals rarely resulted in reversed verdicts. Appeals processes failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. Nationwide, courts at all levels found 1,713 defendants not guilty, which represented 0.19 percent of criminal defendants at trial.

SPC regulations require all trials to be open to the public, with certain exceptions, such as cases involving state secrets, privacy, and minors. Authorities used the legal exception for cases involving state secrets to keep politically sensitive proceedings closed to the public and sometimes even to family members, and to improperly withhold access to defense counsel. Under the regulations, foreigners with valid identification are allowed the same access to trials as citizens, but in practice foreigners were permitted to attend court proceedings by invitation only. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as "state secret" cases, fill all available seats with security officials, or otherwise close them to the public. Between June and July in Guangzhou, representatives of a foreign consulate initially were granted permission to attend the trial of Guo Feixiong, but authorities postponed the trial date and subsequently denied access to the consulate. On November 14, Guo was sentenced to five years' imprisonment and fined over \$5,600 (RMB 40,000) following a year in detention. Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

There was no adversary system, no presumption of innocence, and judges and prosecutors typically used an inquisitorial style to question the defendant, who was often the only witness. The law affords no right to remain silent, no protection against double jeopardy, and no rules governing the type of evidence that may be introduced.

Police and prosecutorial officials often ignored the due process provisions of the law. Because of the lack of due process, the consequences were particularly egregious in death penalty cases. By law there are at least 68 capital offenses, including nonviolent financial crimes such as counterfeiting currency, embezzlement, and corruption. Following the SPC's reassumption of death penalty review power on January 1, executions were not to be carried out on the date of conviction, but only on the SPC's approval following review. Media reports stated that approximately 10 percent of executions were for economic crimes, especially corruption. However, SPC Vice President Jiang Xingchang stated the SPC handed down only "a very small number of death sentences for economic crimes now, just a few a year."

Through the monitoring of publicly available records and reports, Amnesty International estimated that in 2006 at least 1,770 persons were executed, although the true figure was believed to be much higher. Other sources estimated that between 7,500 and 8,000 persons were executed in 2006. On January 1, the SPC reassumed jurisdiction to conduct final review of death penalty cases handed down for immediate execution (but not death sentences handed down with a two-year reprieve), thus consolidating and reclaiming the death penalty review power from provincial courts. An SPC regulation effective February 28 clarified circumstances in which the SPC should approve, revise, or remand death sentences; in most cases the SPC does not have the authority to issue a new decision or declare a defendant innocent if it discovers errors in the original judgment. The regulation also provided that the SPC would generally limit the exercise of its discretion to approve or disapprove lower court decisions. Courts handling death penalty cases in the second instance are required to conduct hearings at which witnesses in certain circumstances, such as when the prosecution and defense disagree about a witness' testimony or when the judge orders it, should testify. In August the SPC sent to local procuracies guidance to improve due process standards in death penalty cases. Monitoring and analysis of the application of the death penalty was difficult because official statistics remained a state secret. After the new procedures went into effect, three Beijing intermediate courts asserted the number of death penalty cases declined by 10 percent, although they did not provide underlying figures. Given the absence of open procedures and statistics, it was not possible to evaluate independently the implementation and effects of the new procedures.

Political Prisoners and Detainees

Government officials continued to deny holding any political prisoners, asserting that authorities detained persons not for their political or religious views, but because they violated the law; however, the authorities continued to confine citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in reeducation-through-labor camps or administrative detention. The government did not grant international humanitarian organizations access to political prisoners.

Foreign NGOs estimated that several hundred persons remained in prison for the repealed crime of "counterrevolution," and thousands of others were serving sentences under the state security law, which authorities stated covers crimes similar to counterrevolution. Persons who continued to be detained for counterrevolutionary offenses included labor activist Hu Shigen and Inner Mongolian activist Hada. Foreign governments urged the government to review the cases of those charged before 1997 with counterrevolution and to release those who had been jailed for nonviolent offenses under provisions of the criminal law, which were eliminated when the law was revised. To date, no systematic review has occurred. The government maintained that counterrevolutionary prisoners were eligible for parole and early release on an equal basis with other prisoners but provided no evidence to support this assertion. According to Amnesty International, dozens of people were believed to remain in prison in connection with their involvement in the 1989 Tiananmen prodemocracy movement. Others estimated that at least 10 and as many as 200 Tiananmen activists were still in prison. The exact number was unknown because official statistics have never been made public.

Many political prisoners remained in prison or under other forms of detention at year's end, including rights activist Hu Jia; journalist Shi Tao; Internet writers Yang Zili and Xu Wei; labor activists Yao Fuxin, Mu Mingjun, Hu Shigen, Huang Xiangwei, Kong Youping, Ning Xianhua, Li Jianfeng, Li Xintao, Lin Shun'an, Yue Tianxiang, Zhang Shanguang, Gao Hongming, Zha Jianguo, Li Wangyang, and She Wanbao; China Democracy Party cofounder Qin Yongmin; family planning whistleblower Chen Guangcheng; Su Zhimin; Christian activist Zhang Rongliang; Uighurs Tohti Tunyaz and Dilkeç Tilivaldi; and Tibetans Jigme Gyatso, Tenzin Deleg, and Gendun Choekyi Nyima. Political prisoners obtained parole and sentence reduction much less frequently than ordinary prisoners.

Criminal punishments included "deprivation of political rights" for a fixed period after release from prison, during which the individual is denied the already-limited rights of free speech and association granted to other citizens. Former prisoners sometimes found their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and some encountered difficulty in obtaining or keeping employment and housing.

Civil Judicial Procedures and Remedies

Courts deciding civil matters suffered from internal and external limitations on judicial independence. The State Compensation Law provides administrative and judicial remedies for deprivations of criminal rights, such as wrongful arrest or conviction, extortion of confession by torture, or unlawful use of force resulting in bodily injury. In civil matters, prevailing parties often found it difficult to enforce court orders, and resistance to the enforcement sometimes extended to forcible resistance to court police.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law states that the "freedom and privacy of correspondence of citizens are protected by law;" however, the authorities often did not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored; moreover, the PSB and prosecutors can issue search warrants on their own authority without judicial consent, review, or consideration. Cases of forced entry by police officers continued to be reported.

During the year authorities monitored telephone conversations, facsimile transmissions, e-mail, text messaging, and Internet communications. Authorities also opened and censored domestic and international mail. The security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines. All major hotels had a sizable internal security presence, and hotel guestrooms were sometimes bugged and searched for sensitive or proprietary materials.

Some citizens were under heavy surveillance and routinely had their telephone calls monitored or telephone service disrupted. The authorities frequently warned dissidents and activists, underground religious figures, former political prisoners, and others whom the government considered to be troublemakers not to meet with foreign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or party meetings, and during the visits of high-level foreign officials. Security personnel also harassed and detained the family members of political prisoners, including following them to meetings with foreign reporters and

diplomats and urging them to remain silent about the cases of their relatives.

Forced relocation because of urban development continued and in some locations, increased during the year. During the year protests over relocation terms or compensation, some of which included thousands of participants, took place and some protest leaders were prosecuted. Some activists and NGOs linked evictions in Beijing to construction for the 2008 Olympics. In rural areas, relocation for major state projects, such as dams, and for commercial development resulted in the forced relocation of millions of persons.

The government restricted the rights of parents to choose the number of children they will have and the period of time between births. While the national family planning authorities made some progress on maternal health issues and in emphasizing quality of care in family planning practices, the country's birth limitation policies retain harshly coercive elements in law and practice. The penalties for violating the law are strict, leaving some women little choice but to abort pregnancies.

The law standardizes the implementation of the government's birth limitation policies; however, enforcement varied significantly from place to place. The law grants married couples the right to have one birth and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. The law requires couples that have an unapproved child to pay a "social compensation fee," which sometimes reached 10 times a person's annual disposable income, and grants preferential treatment to couples who abide by the birth limits. Although the law states that officials should not violate citizens' rights, these rights, as well as penalties for violating them, are not clearly defined. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

Social compensation fees are set and assessed at the local level. The law requires family planning officials to obtain court approval before taking "forcible" action, such as detaining family members or confiscating and destroying property of families who refuse to pay social compensation fees. However, in practice this requirement was not always followed.

The one-child limit was more strictly applied in the cities, where only couples meeting certain conditions (e.g., both parents are only children) were permitted to have a second child. In most rural areas (including towns of under 200,000 persons), which included approximately 60 percent of the country's population, the policy was more relaxed, generally allowing couples to have a second child if the first was a girl or had a disability.

All provinces have regulations implementing the national family planning law. For example, Anhui Province's law permits 13 categories of couples, including coal miners, some remarried divorcees, and some farm couples, to have a second child. Ethnic minorities, such as the Uighurs and the Tibetans, are also allowed more than one child. Several provinces--Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin, Liaoning, and Ningxia--require "termination of pregnancy" if the pregnancy violates provincial family planning regulations. An additional 10 provinces--Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan--require unspecified "remedial measures" to deal with out-of-plan pregnancies.

In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to have a child. Social compensation fees were levied on unwed mothers.

The country's population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. Psychological and economic pressures were common. Those who violated the child limit policy by having an unapproved child or helping another to do so faced disciplinary measures such as job loss or demotion, loss of promotion opportunity, expulsion from the party (membership in which was an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of property. In the case of families that already had two children, one parent was often pressured to undergo sterilization. The penalties sometimes left women with little practical choice but to undergo abortion or sterilization.

The law states that family planning bureaus will conduct pregnancy tests on married women and provide them with unspecified "follow-up" services. Some provinces fine women who do not undergo periodic pregnancy tests. For example, in Hebei fines range from \$28 to \$70 (RMB 200 to 500) and in Henan from \$7 to \$70 (RMB 50 to 500).

Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. Promotions for local officials depended in part on meeting population targets. There continued to be sporadic reports of violations of citizens' rights by local officials attempting to reduce the number of births in their region. The most egregious reports of mass violations occurred in April and May in Guangxi Province, where authorities forced dozens of pregnant women to undergo abortions at a hospital in Baise City, some as late as nine months. In a separate incident in Guangxi, thousands of residents of nine towns in Bobai and Rong counties protested illegal family planning measures, which included forced abortions and sterilizations, by attacking government workers and looting family planning offices. The protesters claimed that thousands of homes had been ransacked by local officials, who also levied excessive fines to punish households with unauthorized pregnancies. Media reports stated that villagers were fined up to \$9,800 (RMB 70,000), whereas villagers reported that fines normally do not exceed \$700 (RMB 5,000). National authorities issued a statement instructing the local government to resolve the matter lawfully, protect citizens' legitimate rights, and train staff according to the law, including quality of service. National authorities stated that they would investigate reports of coercion and sanction violators, although by year's end no Guangxi officials had been punished.

According to law, citizens may sue officials who exceed their authority in implementing birth-planning policy. A couple from Hebei Province sued local family planning officials for forcing a late-term abortion in September 2000 of a fetus deemed "illegal" because it was conceived five months prior to the couple's marriage, which they said destroyed the mother's ability to conceive. In May the district court ruled against them, but in an unprecedented move, a higher court accepted the appeal in July. At year's end the case was still pending. However, there existed few protections for whistleblowers against retaliation from local officials.

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations with the traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate these pregnancies. National Population and Family Planning Commission (NPFPC) regulations ban nonmedically necessary determinations of the sex of the fetus and sex-selective abortions, but some Chinese experts believed that the penalties for violating the regulations were not severe enough to deter unlawful behavior. According to government estimates during the year, the male-female birth ratio for first births in rural areas was 122.85 to 100, higher than the national average of 119.58 to 100 (compared with norms elsewhere of between 103 and 107 to 100), and in some parts of the country, the ratio was even more skewed. For second births, the national ratio was 152 to 100. While the NPFPC continued to deny a direct connection between family planning and skewed sex ratios at birth, it promoted expanded programs to raise awareness of the sex ratio imbalance and to improve protection of the rights of girls.

Family members of activists and rights defenders, Falun Gong practitioners, journalists, unregistered religious figures, and former political prisoners were targeted for arbitrary arrest and detention. On September 29, state security officers detained the brother and son of Ye Guozhu, who was imprisoned in 2004 for leading protests against forced evictions. Ye Guozhu's son, Ye Mingjun, reportedly was released on bail on October 30. Ye Guozhu's brother, Ye Guoqiang, remains in custody. Ye Guoqiang reportedly has not been permitted to meet with attorneys, and it is not clear if he has been formally charged. In November 2006 Geng He, the wife of prominent human rights defender Gao Zhisheng, was attacked by local officials while shopping in Beijing. On May 27, Yuan Weijing, the wife of legal advisor Chen Guangcheng, was released from house arrest. She reportedly has continued to be subjected to police surveillance and other harassment.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, although the government generally did not respect these rights in practice. The government interpreted the CCP's "leading role," as mandated in the constitution, as superseding and circumscribing these rights. The government continued to control print, broadcast, and

electronic media tightly and used them to propagate government views and CCP ideology. Some controls tightened during the year, and it was increasingly difficult to express views that differed from the official line through broadcast media and in print. All media were expected to abide by censorship guidelines issued by the party. Media outlets received regular guidance from the Central Propaganda Department, which listed topics that should not be covered, including politically sensitive topics. During the year propaganda officials issued new guidelines restricting media coverage of an additional 20 topics, including judicial corruption and campaigns by legal rights defenders. These measures greatly restricted the freedom of journalists and Internet writers to report the news and led to a high degree of self-censorship.

So long as the speaker did not publish views that challenged the CCP or disseminate such views to overseas audiences, the range of permissible topics for private speech continued to expand. Political topics could be discussed privately and in small groups without punishment, and minor criticisms of the government were common topics of daily speech. However, public speeches, academic discussions, and speeches at meetings or in public forums covered by the media remained circumscribed. The government also frequently monitored gatherings of intellectuals, scholars, and dissidents where political or sensitive issues were discussed. Those who aired views that disagreed with the government's position on controversial topics or disseminated such views to an overseas audience risked punishment ranging from disciplinary action at government work units to police interrogation and detention.

On January 1, the government implemented new temporary regulations governing foreign media coverage related to the 2008 Olympic Games. The regulations, which are set to expire October 17, 2008, eliminate the requirement that foreign journalists must obtain permission from local authorities before conducting interviews and investigations outside Beijing and Shanghai. The FCCC reported that although the regulations improved overall reporting conditions for foreign journalists, the government and state security officials continued to detain, harass, and intimidate foreign journalists; they were also still required to apply for the rarely granted official permits to visit the Tibet Autonomous Region (TAR) and XUAR. In March security forces detained and expelled two BBC journalists from Zhushan, Hunan Province, who were investigating reports of the death of a student during a protest. During an August trip to the XUAR, a journalist for *Le Monde* newspaper was interrogated and searched by local authorities. According to the journalist, his sources in the XUAR were also questioned and intimidated after meeting with him.

Detention and harassment of journalists and Chinese employees working for foreign media outlets raised concern that local officials were attempting to intimidate foreign correspondents and newspapers. However, some foreign journalists reported that the temporary regulations widened access to individuals and topics that previously would have been strictly prohibited. Reuters interviewed prominent dissident Bao Tong on more than one occasion, as well as Xinna, the wife of Inner Mongolian political prisoner Hada. In July an FCCC survey found that 40 percent of foreign correspondents said they had encountered government interference, including intimidation of sources, detention, surveillance, and violence. Fifteen correspondents operating under the new rules reported that they had been detained. Some journalists said they encountered difficulties with officials who refused to accept the regulations. Some foreign academics and journalists critical of the country continued to be denied visas.

The Central Propaganda Department continued to list subjects that were off limits to the domestic media, and the government maintained authority to approve all programming. Nearly all print media, broadcast media, and book publishers were owned by, or affiliated with, the CCP or a government agency. There were a small number of privately owned print publications, but no privately owned television or radio stations. International media were not allowed to operate freely and faced heavy restrictions.

Journalists who reported on topics that met with the government's or local authorities' disapproval continued to suffer harassment, detention, and imprisonment. In July local authorities from Henan Province initially blocked a story that uncovered more than 1,000 illegal slave laborers in the brick kilns in Henan and Shanxi provinces, most of whom were kidnapped children or persons with mental disabilities. A state council information official criticized the local authorities' actions, and the story was covered extensively. However, within two weeks the propaganda department reportedly issued an order to stop the discussion. The local journalist, Fu Zhenzhong, was not permitted to speak with foreign correspondents, and families questioned by the foreign media were visited by the police, who reportedly urged them to avoid contact with outsiders. Although the factory owner, his foremen, and several other low-level bosses were prosecuted, only four officials, including one police officer, were prosecuted. Ninety-five party members who were implicated in the effort to cover up received warnings (see sections 5 and 6.c.).

Local governments continued to use anonymous thugs suspected of being plainclothes police personnel to intimidate journalists. In January thugs beat to death LAN Chengzhang, a reporter for the *China Trade Times*, who was researching illegal coal mines in Hunyuan, Shanxi Province. The thugs allegedly were hired by the owner of the coal mine, but local police reportedly obstructed the activities of journalists who went to Hunyuan to investigate Lan's death. In August unidentified assailants reportedly beat five local journalists, including one from the *People's Daily*, who were reporting on a bridge collapse in Fenghuang, Hunan Province. Local officials detained the reporters and accused them of "illegal reporting," while the assailants were reportedly released without change.

Journalists who remained in prison included Ching Cheong, Lu Gengsong, Lu Jianhua, Huang Jinqui, Li Changqing, Yu Huafeng, Li Mingying, Cheng Yizhong, and Shi Tao. International NGOs reported that at least 29 journalists and 51 cyber dissidents remained imprisoned.

Government officials used criminal prosecution, civil lawsuits, and other punishments to intimidate authors and block controversial writings. On April 13, writer and painter Yan Zhengxue was sentenced to three years in prison for inciting subversion in connection with articles he posted on foreign Web sites attacking CCP leaders. Yan was detained in October 2006 and formally charged with inciting subversion in November 2006.

During the year journalists and editors who exposed corruption scandals frequently faced problems with the authorities. Newspapers and journalists who reported on corruption without government or party approval faced possible sanction, although authorities allowed reporting on some high-profile cases. Propaganda officials restricted independent reporting of the case of former Shanghai Party Secretary Chen Liangyu, who was dismissed from the CCP in July for corruption, and ordered publications to rely only on Xinhua News Agency reports for their coverage of this topic. Similar restrictions applied in the case of Zheng Xiaoyu, the former director of the State Food and Drug Administration, who was executed on July 10. Qi Chonghua, a *Shandong Fazhi Zaobao* journalist, was reportedly detained on June 25 and held for two months after reporting allegations of government corruption in Tengzhou, Shandong.

The government continued to target publications that contained political information and restricted reporting on politically sensitive topics. During the first three months of the year, authorities confiscated nearly 400,000 copies of publications deemed to have harmed social stability, endangered state security, or incited ethnic separatism. In July Beijing PSB officials shut down the *China Development Brief*, an online journal that served as an information clearing house for NGOs and reported on social and civil society developments. In June security officials investigated the *Chengdu Evening News* after it ran an advertisement saluting the mothers of victims of the June 4 Tiananmen crackdown. The investigation determined that a young employee unfamiliar with June 4 history mistakenly allowed the advertisement to run.

Authorities continued to block reporting and restricted journalists from covering protests, including the June 1 and 2 demonstrations in Xiamen, during which an estimated 10,000 residents marched against the proposed construction of a chemical plant. Following the protest city authorities banned anonymous online postings. Police also detained protest organizer Li Yiqiang the day after the march and charged him with illegal assembly.

Officials continued to censor, ban, and sanction reporting on labor, health, environmental crises, and industrial accidents. On August 15, authorities in Hangzhou, Zhejiang Province, reportedly ordered an environmental protection Web site to remove posted articles about environmental activist Wu Lihong. Chinese media stated that Wu had been sentenced the week before to three years' imprisonment on charges of fraud and extortion, though foreign media reported that the sentence was retribution for his work exposing the pollution of Tai Lake. In August authorities interfered with reporting a mine disaster in Xintai, Shandong Province, by preventing journalists from interviewing the victims' relatives and urging the media to emphasize efforts to rescue trapped miners.

Several reports of food safety incidents surfaced, including a July story in which a Beijing television station reported that a street vendor substituted chemically treated cardboard for pork in its products. The government later announced that the story was false and sentenced the reporter to one year in jail. In August the General Administration of Press and Publications (GAAP) launched a campaign to stamp out illegal news coverage and "false news." In November an emergency response law went into effect that punishes media organs for mistakes made in reporting natural disasters and emergencies, as well as government efforts to handle them, if they fail to obtain prior authorization to report. Journalists expressed concern that the measures were intended to further restrict press freedom. On November 12, the government-run English language newspaper *China Daily* reported that the government would, in preparation for the 2008 Olympics, compile a database of foreign journalists, ostensibly to combat the phenomenon of "fake journalists" posing as reporters to extort money. The Ministry of Foreign Affairs later denied that such a database existed.

By law, only government-approved publishing houses were permitted to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish. No newspaper, periodical, book, audio, video, or electronic publication may be printed or distributed without the PPA and relevant provincial publishing authorities' approval of both the printer and distributor. Individuals who attempted to publish without government approval faced imprisonment, fines, confiscation of their books, and other sanctions. The charge that Guo Feixiong conducted "illegal business activity" reportedly resulted from his publication of a book, *Shenyang's Political Earthquake*, without government approval. The CCP exerted control over the publishing industry by preemptively classifying certain topics as off limits. Underground printing houses were targets of periodic campaigns to stop all illegal publications, including pornography and pirated computer software and audiovisual products. Many intellectuals and scholars exercised self-censorship, anticipating that books or papers on political topics would be deemed too sensitive to be published. The censorship process for private and government media also increasingly relied on self-censorship and, in a few cases, post-publication sanctions.

During the year authorities in Urumqi, XUAR, destroyed over 25,000 "illegal" religious books. In 2006 XUAR authorities reported confiscating publications about Islam with "unhealthy content." Uighur writers and editors, including the editor of the *Kashgar Literature Journal*, Korash Huseyin, reportedly were jailed in 2005 for publishing stories that authorities maintained advocated separatism. Authorities continued to ban books containing content they deemed controversial. In January the GAPP reportedly banned eight books. Most of the banned titles dealt with China's recent history, including Zhang Yihe's *Past Stories of Peking Opera Actors*.

The authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), Radio Free Asia (RFA), and the BBC. English-language broadcasts on VOA generally were not jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. Internet distribution of "streaming radio" news and "podcasts" from these sources often was blocked. Despite jamming overseas broadcasts, VOA, BBC, RFA, Deutsche Welle, and Radio France International had a large audience, including rights advocates, ordinary citizens, and government officials.

Television broadcasts of foreign news, largely restricted to hotels and foreign residence compounds, were occasionally subject to censorship. Politically sensitive coverage in Chinese, and to a lesser extent in English, was censored more than coverage in other languages. "Public service announcements" frequently interrupted news items critical of the government, particularly in the south, where television programming from Hong Kong was available. In July China reportedly initiated a crackdown against local cable television systems that were illegally receiving the Hong Kong-based news station Phoenix TV via satellite. Prior to the crackdown, an estimated 200 million citizens had access to the television station. The government prohibited some foreign and domestic films from appearing in the country when they were deemed to touch upon sensitive themes.

Internet Freedom

The China Internet Network Information Center reported that at the end of the year the number of Internet users increased to 210 million, 78 percent of whom had broadband access to the Internet. There were 53 million Internet users in rural areas, more than double the number in 2006. While the government took steps to monitor Internet use, control content, restrict information, and punish those who violated regulations, these measures were not universally effective. A large number of Internet users used proxy servers to access banned content. During the year political dissidents successfully used Internet instant messaging technology to hold large-scale, virtual meetings. In January President Hu Jintao called for purifying the Internet environment and stated that the CCP's ability to control the Internet is a matter affecting state stability. In the lead-up to the 17th Communist Party Congress in October, Internet regulators reportedly ordered the country's leading search engine operators, including Google, Baidu, Yahoo, Sina, and Sogou, to delete all "harmful information." Restrictions aimed at increasing government control over the Internet included stricter Web site registration requirements, enhanced official control of online content, and an expanded definition of illegal online content. All Web sites are required to be licensed by, or registered with, the Ministry of Information Industry (MII).

The MPS, which monitors the Internet under guidance from the Central Propaganda Department, employs thousands of people at the national, provincial, and local levels to police electronic communications. According to news reports, by the end of June all major portals and online forums were monitored by MPS, reportedly as part of a campaign against online pornography. Beijing public security officials unveiled cartoon police officers that popped up on Internet users' screens to warn them to stay away from forbidden Web sites. Operators of Web portals, blog hosting services, and other content providers engaged in significant self-censorship to ensure their servers were free from politically sensitive content.

The government consistently blocked access to sites it deemed controversial, such as sites discussing Taiwan and Tibetan independence, underground religious and spiritual organizations, democracy activists, and the 1989 Tiananmen massacre. The government also at times blocked access to selected sites operated by major foreign news outlets, health organizations, foreign governments, and educational institutions. According to news reports, between April and September, the MPS shut down 18,400 illegal Web sites; 8,808 for carrying pornographic content and another 9,593 because they were unregistered.

The number of blocked and censored sites increased around major political events and sensitive dates, particularly during the period leading up to the October 17th Communist Party Congress. The authorities employed more sophisticated technology enabling selective blocking of specific content rather than entire Web sites. Such technology also was used to block e-mails containing sensitive content. Individuals using the Internet in public libraries were required to register using their national identity card. Internet usage reportedly was monitored at all terminals in public libraries.

On February 13, lawyer Pu Zhiqiang, one of four lawyers who initiated an online campaign protesting the censorship of the Xinlang (new wave) blog, had his own blog shut down. In July authorities reportedly blocked access to an overseas Web site shvoong.com, which provided abstracts of academic papers and literature popular with intellectuals and students. In July Shanghai officials reportedly shut down an online literary forum run by poet Lu Yang reportedly due to a posting related to the anniversary of Tiananmen. According to news reports, authorities disconnected entire Internet data centers, which contained thousands of servers, because of blog pages containing sensitive material.

Regulations prohibit a broad range of activities that authorities interpret as subversive or slanderous to the state. Internet service providers (ISPs) were instructed to use only domestic media news postings, to record information useful for tracking users and their viewing habits, to install software capable of copying e-mails, and to end immediately transmission of so-called subversive material. Many ISPs practiced extensive self-censorship to avoid violating broadly worded regulations.

During the year individuals were detained or imprisoned for their Internet writing. In August Internet blogger He Weihua was arrested by Hunan authorities and committed to a mental hospital, allegedly as punishment for antigovernment writings. On August 14, a court in Hangzhou sentenced Internet writer Chen Shuqing to four years in prison for inciting subversion after he criticized the government online. In March a court in Ningbo, Zhejiang Province, sentenced Internet writer Zhang Jianhong (also known as Li Hong) to six years in prison. Zhang was arrested in 2006 after writing an article calling for activist Gao Zhisheng's release. Zhang was a founder and editor of the literary and news Web site Aegean Sea (*Aiqinhai*), which authorities [shut down in March](#) 2006. On December 13, police in Guilin, Guangxi Province, arrested Internet writer Wang Dejia (also known as Jing Chu) after Wang posted several articles critical of the government. Other individuals who remained in prison for posting political or dissenting views on the Internet included journalist and Internet essayist Li Changqing, activist Ren Zhiyuan, Internet essayist Yang Tongyan (Yang Tianshui), and Internet author and human rights advocate Guo Qizhen.

On August 21, 14 major ISPs signed a "blog hosting self discipline pledge" sponsored by the Internet Society of China. Under the pledge, companies agreed to encourage bloggers to register under their real names and to erase any "illegal or unhealthy" postings. Companies that signed the pledge included popular Chinese Internet companies like Sina.com and Sohu.com as well as Yahoo China, which is operated by Alibaba.com, and MSN China. During the year the government also continued to pressure companies to sign a "Public Pledge on Self Discipline for China's Internet Industry." Those who signed the pledge agreed not to spread information that "breaks laws or spreads superstition or obscenity." They also promised to refrain from "producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability." According to court documents, in past years Yahoo provided information to security authorities, including access to private e-mail accounts, used in the prosecution of journalist Shi Tao and dissident Wang Xiaoning. The company said it was required to provide the information under national law and customs. Both men remained in prison at year's end.

Internet cafes must install software that allows government officials to monitor customers' Internet usage. Internet users at cafes were often subject to surveillance. Many cafes sporadically enforced regulations requiring patrons to provide identification.

Academic Freedom and Cultural Events

The government did not respect academic freedom and increased controls on political and social discourse at colleges, universities, and research institutes. Scholars and researchers reported varying degrees of control regarding issues they could examine and conclusions they could draw. Some law professors were warned not to propose abolition of the reeducation-through-labor system. Scholar Xu Zerong, who was convicted in 2001 of providing state secrets abroad and conducting illegal business activities in connection with his research on China's role in the Korean War, remained in prison at year's end. In March Renmin University removed Zhang Ming as dean of the Political Science Department after Zhang made critical statements on his blog about Renmin University and the state of academic freedom.

Authorities canceled university conferences involving foreign and domestic academics on short notice when they deemed the topics at issue to be too sensitive. On occasion information outreach, educational exchanges, and other cultural and public diplomacy programs organized by foreign governments were subject to government interference. Foreign experts invited to participate in foreign government sponsored programs on certain topics were denied visas. In February authorities barred more than 20 writers from participating in the International PEN writers' conference in Hong Kong. According to press accounts, some writers were denied travel documents, some were turned away at the border, and others were visited by authorities before leaving and warned not to attend. Organizers of the PEN conference, which promotes writers' freedoms, stated that actions taken by authorities tightened creative freedoms over the past year.

The government continued to use political attitudes and affiliations as criteria for selecting persons for the few government-sponsored study abroad programs but did not impose such restrictions on privately sponsored students. The government and the party control the appointment of high-level officials at universities. While party membership is not always a requirement to obtain a tenured faculty position, scholars without party affiliation often have fewer chances for promotion.

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of peaceful assembly; however, the government severely restricted this right in practice. The law stipulates that such activities may not challenge "party leadership" or infringe upon the "interests of the state." Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly suppressed demonstrations involving expression of dissenting political views.

Demonstrations with political or social themes were broken up quickly, sometimes with excessive force. Social inequalities and uneven economic development, combined with dissatisfaction over widespread official corruption, resulted in increased social unrest. As in past years, the vast majority of demonstrations during the year concerned land disputes, housing issues, industrial, environmental, and labor matters, government corruption, taxation, and other economic and social concerns. In January the MPS announced that the number of "mass incidents," a vague term encompassing all kinds of protests and disturbances, fell 16.5 percent in 2006. Officials estimated the number of mass incidents was 23,000, although experts questioned the reliability of this figure. In September, 2,000 demobilized military personnel in three provinces used cell phones and the Internet to coordinate protests over poor conditions at job retraining schools. In March as many as 20,000 persons in Yongzhou, Hunan Province, rioted when a local bus company raised fares. According to foreign media reports, a student died in the melee, and many more were injured. However, local authorities claimed there were no deaths or casualties, and there has been no official investigation into the incident. In May thousands of residents across two counties and nine towns in Guangxi Province rioted against illegal family planning measures, attacking government workers and looting family planning offices.

Authorities detained potential protesters before and after the June 4 anniversary of the Tiananmen massacre, the second anniversary of Zhao Ziyang's death in January, the March plenary sessions of the NPC and CPPCC, and the 17th Communist Party Congress in October. Dissidents were detained around the time of other sensitive events to prevent public demonstrations. Labor protests over restructuring of state-owned enterprises and resulting unemployment continued, as did protests over environmental degradation and major infrastructure projects, such as dams. All concerts, sports events, exercise classes, or other meetings of more than 200 persons required approval from public security authorities. In practice much smaller gatherings also ran the risk of being disrupted by authorities.

Persons petitioning the government continued to face restrictions on their rights to assemble and raise grievances. Official news media reported that citizens presented 12.7 million petitions to "letters and visits" offices in 2005, but only 0.2 percent of petitions filed received a response. Most petitions mentioned grievances about land, housing, entitlements, the environment, or corruption. Most petitioners sought to present their complaints at national and provincial "letters and visits" offices.

Efforts to rid Beijing of petitioners resulted in heightened harassment, detention, incarceration, and restrictions on their rights to assemble and raise grievances. Petitioners from several provinces reported being accosted by plainclothes police at train and bus stations entering Beijing and returned to their homes before registering their petitions in the capital. Police were dispatched to detain or disperse petitioners gathering at points in Beijing to lodge petitions. In December Beijing's municipal government reportedly demolished the last dwellings of a petitioner village in the Fengtai District that housed up to 4,000 petitioners. Authorities required residents to vacate their homes to make way for demolition. Authorities said the demolition was necessary to build a road, but critics asserted that the demolition at Fengtai, near bus and train stations and the central government's appeals office, sought to rid Beijing of petitioners before the 17th Communist Party Congress. Officials from Nanyang City, Henan Province, reportedly operated a "black" or illegal jail in Beijing to detain Nanyang petitioners arriving in the capital to press grievances for property claims, police brutality, and official corruption. An official at the "black jail" reportedly stated that the detention site operated with central government permission. Although regulations implemented in 2005 banned retaliation against petitioners, reports of retaliation continued. This was partly due to incentives provided to local officials by the central government to prevent petitioners in their regions from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces. Such detentions occurred both before and after the enactment of the new regulations and often went unrecorded.

Freedom of Association

The law provides for freedom of association, but the government restricted this right in practice. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that might challenge government authority.

The government maintained tight controls over civil society organizations and over the past three years increased measures aimed at supervising and controlling them. In 2005 authorities established a task force to increase scrutiny over NGOs, especially those with links overseas. Published reports stated the task force was aimed at blocking NGOs from fomenting political change. International foundations, NGOs involved in social and charitable activities, and groups dedicated to combating discrimination against women, persons with disabilities, and minorities were reportedly targets of the campaign, along with organizations that focused on human rights and labor issues.

To register, an NGO must find a government agency to serve as the NGO's organizational sponsor, have a registered office, and hold a minimum amount of funds. Organizations with social or educational purposes that previously had been registered as private or for-profit businesses reportedly were requested to find a government sponsor and reregister as NGOs during the year. Although the registered organizations all came under some degree of government control, some NGOs were still able to operate with some degree of independence.

Despite tight restrictions and regulations, the number of civil society organizations continued to grow. According to official statistics, by the end of 2006, there were 354,000 registered civil society organizations. The World Bank estimated that there were between 300,000 and 700,000 NGOs, a significant increase from 4,800 in 1988. Other experts estimated that, including both registered and unregistered groups, there were perhaps as many as eight million quasi-governmental organizations and NGOs. Civil society organizations existed under a variety of formal and informal guises, including national mass organizations created and funded by the CCP.

Authorities supported the growth of some civil society organizations that addressed social problems, such as poverty alleviation. However, authorities remained cautious that these organizations might emerge as a source of political opposition among disgruntled citizens. A student-led NGO called Xinjiang Snow Lotus, which advocated on behalf of AIDS and Hepatitis B patients, was shut down in October 2006 on the claim that it was not formally registered as an NGO. Snow Lotus' founder, Chang Kun, was expelled from his university. In November 2006 Shenzhen officials investigated 12 grassroots labor rights organizations that were working together to overturn a regulation concerning labor arbitration, ultimately shutting down two of them. A number of NGOs had support from foreign secular and religious NGOs, and several were able to undertake limited advocacy roles in public interest areas such as women's issues, the environment, health, and consumer rights. According to government guidelines, NGOs must not advocate nonparty rule, damage national unity, or upset ethnic harmony. Groups that disregarded guidelines and unregistered groups that continued to operate could face administrative punishment or criminal charges.

No laws or regulations specifically govern the formation of political parties. But the CDP remained banned, and the government continued to monitor, detain, and imprison current and former CDP members.

c. Freedom of Religion

The constitution and laws provide for freedom of religious belief and the freedom not to believe, although the constitution only protects religious activities defined as "normal." The government sought to restrict legal religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of both registered and unregistered religious groups, including house churches. Religious groups must register with a government-affiliated patriotic religious association (PRA) associated with one of the five recognized religions: Buddhism, Taoism, Islam, Protestantism, and Catholicism. The PRAs supervised the activities of each of these religious groups and liaised with government religious affairs authorities charged with monitoring religious activity. The government tried to control and regulate religious groups, particularly unregistered groups. Nonetheless, membership in many religious groups continued to grow rapidly.

The extent of religious freedom continued to vary widely within the country. Freedom to participate in officially sanctioned religious activity continued to increase in most areas. Religious activity grew not only among the five main religions, but also among the Eastern Orthodox Church and folk religions. Some unregistered groups continued to experience varying degrees of official interference and harassment. Severe crackdowns against unregistered Protestants and Catholics, Muslims, and Tibetan Buddhists continued, and the government increased its control over some peaceful religious practices. The level of repression of religious freedom in Tibetan areas increased, and there was some tightening of official control over religious freedom in the XUAR. The government also continued its severe repression of groups that it determined to be "cults," targeting the Falun Gong spiritual movement in particular.

All religious venues were required to register with the State Administration for Religious Affairs (SARA) or its provincial or local offices, which are known as Religious Affairs Bureaus (RABs). SARA and the RABs were responsible for monitoring and judging whether religious activity was "normal" and therefore lawful. SARA and the CCP's United Front Work Department provided policy guidance and supervision over implementation of government regulations on religious activity.

The 2005 regulations on religious affairs (RRA) delineated regulatory activities governing religious affairs and consolidated official pronouncements within a legal framework. The regulations protect the rights of registered religious groups, under certain conditions, to possess property, publish literature, train and approve clergy, and collect donations. However, the regulations have done little to expand religious freedom, as the activities of unregistered religious groups remain outside the scope of the RRA's legal protection. The regulations provide general protection only for freedom of "religious belief," but not expressions of belief, and merely codify past practices, including restrictions over officially recognized religious communities. The regulations protect only those religious beliefs categorized vaguely as "normal." In practice party doctrine guides the resolution of religious issues and the implementation of regulations. The regulations also give authorities broad discretion to define which religious activities are permissible.

The law requires religious groups to register places of worship. Spiritual activities in places of worship that have not registered may be considered illegal and participants can be punished. Government officials stated that private homes where family and friends meet to study the Bible would not be required to register, but venues for formal worship services should be registered, even if such formal worship takes place in a private home. Clergy need not be approved by the government but must be reported to the government after being selected pursuant to the rules of the relevant government-affiliated religious association. Pressure on religious groups to register or to come under the supervision of official religious organizations continued during the year. Some groups registered voluntarily, while some registered under pressure. Several groups avoided officials in an attempt to avoid registration, and the government refused to register some groups. Various unofficial groups reported that authorities refused their registration without explanation. The government contended that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Some religious groups were reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they revealed, as required, the names and addresses of church leaders and members.

Local authorities' handling of Protestant "house churches" varied in different regions of the country. In some regions unregistered house churches with hundreds of members met openly, with the full knowledge of local authorities, who characterized the meetings as informal gatherings. In other areas house church meetings of more than a handful of family members and friends were strictly proscribed. Leaders of unauthorized groups were sometimes the target of abuse. Authorities often disrupted house church meetings and retreats; detained, beat, and harassed leaders and church members; and confiscated the personal property of house church leaders and members. House churches were more likely to encounter difficulties when their membership grew, when they arranged for the regular use of facilities for the purpose of conducting religious activities, or when they forged links with other unregistered groups.

In February police and local RAB officials reportedly raided a prayer meeting at a private home in Jiangsu Province. When some of the individuals at the meeting refused to give their names, police reportedly beat them. Police also forced the owner of the home to sign a statement agreeing not to hold religious activities in his home. In March and December, authorities in Beijing and in several provinces reportedly detained and interrogated members of the China House Church Alliance about their connections to foreigners and about alleged plans to disrupt the 2008 Olympic Games.

In May police in Aksu, XUAR, reportedly arrested about 30 house church leaders who had met with overseas Christians. Six of the house church leaders were accused of involvement in "evil cult activities," and two were abused during interrogation. During a closed trial in June, a Beijing court sentenced house church activist Hua Huaiqi to six months in prison for obstruction of justice. Police reportedly beat him in jail and poured cold water over him in frigid weather. In July and August, at least 17 house church leaders in eight provinces were reportedly detained as part of a "strike hard" campaign against unauthorized religious activity. Christian attorney Li Heping reported that, on September 29, a group of men ordered him to stop practicing law, beat him, and struck him with electric batons for nearly five hours. Li, who went into hiding after the attack, was a prominent advocate in religious freedom and human rights cases. On November 18, public security bureau officers in Henan detained 40 church leaders from the China Gospel Fellowship. In June 2006 Henan Province house church pastor Zhang Rongliang was convicted of obtaining a passport through fraud and of illegal border crossing and sentenced to prison.

Harassment of unregistered Catholic bishops, priests, and laypersons continued, including government surveillance and detentions. In March police detained Bishop Wu Qinqing, the bishop of Zhouzhi, Shaanxi Province. His whereabouts remained unknown. On March 9, a government document stated that Bishop Wu should not run any church affairs as a bishop or interfere with the Zhouzhi diocese management. In June police detained 73-year-old Jia Zhiguo, an underground bishop of the diocese of Zhengding, Hebei Province, and held him for 17 days in an unknown location. In July officials in Inner Mongolia detained three priests, Liang Aijun, Wang Zhong, and a third individual whose name has not been reported, who had fled from Hebei Province. On July 30, 82-year-old Bishop Yao Liang was arrested, and he remained in detention at year's end. In August Bishop Jia Zhiguo reportedly was again detained and held without charge until December 14. In September underground Bishop Han Dingxiang, who reportedly suffered from cancer and had been under house arrest or other forms of detention for nearly eight years, died at a hospital while under police custody. There was no new information about unregistered Bishop Su Zhimin, who has been unaccounted for since his reported detention in 1997. The government had not responded to reports that Bishop Su died in June 2006.

The government and the Holy See have not established diplomatic relations, and there was no Vatican representative on the mainland. The state-controlled Catholic Patriotic Association (CPA) does not recognize the authority of the Holy See to appoint bishops. However, while bishops continued to be appointed according to CPA rules, the CPA returned to its historical practice of allowing the Vatican's discreet and very limited involvement in selecting some bishops. The role of the pope in selecting bishops, the status of underground Catholic clerics, and Vatican recognition of Taiwan remained obstacles to improved relations, although there were some new efforts toward rapprochement between the government and the Vatican. In January the Vatican issued an invitation to the government to enter a dialogue on restoring diplomatic

relations and announced that it would set up a permanent commission to handle relations with the government. In June Pope Benedict XVI issued an open letter to Chinese Catholics inviting them to resolve differences and called for a "respectful and constructive dialogue" leading to normalized relations. The pope's letter was available online, although local authorities reportedly blocked some Web sites carrying the letter. A Ministry of Foreign Affairs spokesperson stated the government advocated improvement in relations.

In September Xiao Zejiang, who was a member of the Guizhou Provincial People's Political Consultative Congress, was ordained as coadjutor bishop of the Guizhou Diocese. Bishop Xiao's ordination was the first of five ordinations approved both by Beijing and the Vatican following the pope's June letter to Chinese Catholics. Previously, in 2006 Wang Renlei, Ma Yingling, and Liu Xinhong were appointed as bishops without the approval of the Holy See.

In some official Catholic churches, clerics lead prayers for the pope and pictures of the pope were displayed. An estimated 90 percent of official Catholic bishops have reconciled with the Vatican.

Traditional folk religions, such as Fujian Province's "Mazu cult," were still practiced in some locations. They were tolerated to varying degrees, often seen as loose affiliates of Taoism or as ethnic minority cultural practices. However, the government labeled folk religions "feudal superstition" and sometimes repressed them. SARA established a new administrative division responsible for the activities of folk religions and religions outside the main five, including the Eastern Orthodox Church and the Church of Jesus Christ of Latter-day Saints.

Buddhists made up the largest body of organized religious believers. The traditional practice of Buddhism continued to expand among citizens in many parts of the country. However, the government created an increasingly repressive environment for the practice of Tibetan Buddhists. The intensity of religious repression against Tibetan Buddhists varied across regions. Two new sets of legal measures increased the legal basis for repression. On January 1, the TAR implemented the PRC Religious Affairs Management Regulations, which are more restrictive than the TAR's previous 1991 regulations. The new regulations assert state control over nearly all aspects of Tibetan Buddhism, from the management of monasteries to the movement of monks and nuns. On September 1, another set of new regulations went into effect, empowering the party and the government to approve all reincarnate lamas, the top leaders of Tibetan Buddhism. With the implementation of this new measure, the government attempted to control a vital feature of Tibetan Buddhism, the lineages of the reincarnated Buddhist teachers that span centuries (see Tibet Addendum). In Tibetan areas of Sichuan and Qinghai, a "religious education campaign" coerced Tibetans into denouncing the Dalai Lama and forced parents to withdraw their children from monasteries where they were receiving a Tibetan education and put them in regular Chinese elementary schools. Other government restrictions used to justify repression remained, particularly where the government interpreted Buddhist belief as supporting separatism, such as in some Tibetan areas and parts of the Inner Mongolian Autonomous Region. Authorities continued to try to prevent Tibetans from leaving the country to obtain a religious education, under the guise of promoting stability by thwarting separatists. From June 29 to July 5, envoys of the Dalai Lama met with government officials, in the sixth round of dialogue between the two sides since 2002 (see Tibet Addendum).

The government tightly controlled the practice of Islam, and official repression in the XUAR targeted at Uighur Muslims tightened in some areas. Regulations restricting Muslims' religious activity, teaching, and places of worship continued to be implemented forcefully in the XUAR. The government continued to repress Uighur Muslims, sometimes citing counterterrorism as the basis for taking action that was repressive. XUAR authorities detained and arrested persons engaged in unauthorized religious activities. The government reportedly continued to limit access to mosques, detain citizens for possession of unauthorized religious texts, imprison citizens for religious activities determined to be "extremist," force Muslims who were fasting to eat during Ramadan, and confiscate Muslims' passports in an effort to strengthen control over Muslim pilgrimages. In addition the XUAR government maintained the most severe legal restrictions in China on children's right to practice religion. In recent years XUAR authorities detained and arrested persons engaged in unauthorized religious activities and charged them with a range of offenses, including state security crimes. Xinjiang authorities often charged religious believers with committing the "three evils" of terrorism, separatism, and extremism. XUAR authorities prohibited women, children, CCP members, and government workers from entering mosques.

Local officials reportedly arrested or expelled as many as 84 foreign citizens on charges of "illegal religious activity." Local authorities in the XUAR reportedly also committed one associate of expelled foreign citizens to two years of reeducation through labor for assisting the foreigners with conducting "illegal religious activities." Authorities reportedly detained another associate for violating an order that limits proselytizing in XUAR.

The state-controlled Islamic Association of China (IAC) aligned Islamic practice to CCP goals. However, in contrast to the heavy-handed approach to Muslims in the XUAR, officials in Ningxia, Gansu, Qinghai, and Yunnan provinces approached religious affairs cautiously and were reluctant to interfere overtly in Muslims' activities. Authorities reserved the right to censor imams' sermons, and imams were urged to emphasize the damage caused to Islam by terrorist acts in the name of the religion. Certain Muslim leaders received particularly harsh treatment. Authorities conducted monthly political study sessions for religious personnel, and the program continued through the year. Authorities also reportedly tried to restrict Muslims' opportunities to study religion overseas. The China Islamic Conference required religious personnel to study "new collected sermons" compiled by an IAC committee, including messages on patriotism and unity aimed at building a "socialist harmonious society."

In addition to the restrictions on practicing religion placed on party members and government officials throughout the country, teachers, professors, and university students in the XUAR were sometimes not allowed to practice religion openly. A local party secretary, Zhang Zhengrong, reportedly called on schools to strengthen propaganda education during Ramadan and to put a stop to activities including fasting and professing a religion. The Kashgar Teachers College reportedly implemented a series of measures to prevent students from observing Ramadan, including imposing communal meals and requiring students to obtain permission to leave campus. School authorities also made students gather for a school assembly at a time of day coinciding with Friday prayers.

In 2006 the IAC established an office to manage the hajj pilgrimages, and the government took steps to prevent Muslims from traveling on unauthorized pilgrimages. The government continued to enforce a policy barring Muslims from obtaining hajj visas outside of China. The government reportedly published banners and slogans discouraging hajj pilgrimages outside those organized by the IAC. Foreign media reported that XUAR officials confiscated the passports of an unknown number of Uighur Muslims in an effort to prevent unauthorized hajj pilgrimages. Foreign media reported that some Uighur Muslims were told they would have to pay a deposit of \$7,000 (RMB 50,000) to retrieve their passports for overseas travel. Government officials in some areas also arbitrarily detained Muslims to prevent them from going on the hajj, required them to show that their hajj travel funds were not borrowed from other sources, and required them to pass a health test.

Official reports noted that 10,804 Chinese Muslims traveled to Mecca for the 2006-7 hajj pilgrimage. This figure did not include participants who were not organized by the government, for whom there were no official estimates but who numbered in the thousands in previous years.

The law does not prohibit religious believers from holding public office; however, party membership is required for almost all high-level positions in government, state-owned businesses, and many official organizations. CCP officials stated that party membership and religious belief were incompatible and that religious believers should resign their party membership. However, in a December 18 Politburo collective study on religion, President Hu Jintao emphasized the positive role of religion in building a harmonious society and noted that the 17th Communist Party Congress stressed the need to bring into play the role of religion "in promoting economic and social development." The PLA Routine Service Regulations state explicitly that service members "may not take part in religious or superstitious activities." CCP and PLA personnel have been expelled for adhering to Falun Gong beliefs.

Despite regulations encouraging officials to be atheists, some party officials engaged in religious activity, most commonly Buddhism or a folk religion. The NPC included several religious representatives. Religious groups also were represented in the CPPCC, an advisory forum for "multiparty" cooperation and consultation led by the CCP, and in local and provincial governments. CPPCC Standing Committee vice chairmen included Pagbalha Geleg Namgyal, a Tibetan reincarnate lama, and Cao Shengjie, president of the China Christian Council.

The authorities permitted officially sanctioned religious organizations to maintain international contacts that do not involve "foreign control." However, what constitutes "control" is not defined. Regulations on religious practice by foreigners include a ban on proselytizing. Authorities generally allowed foreign nationals to preach to other foreigners, bring in religious materials for personal use, and preach to citizens at the invitation of registered religious organizations. Despite a ban on missionary activities, many foreign Christians teaching on college campuses openly professed their faith with minimum interference from authorities provided their religious activity remained discreet. Authorities permitted citizens who joined the Church of Jesus Christ of Latter-day Saints while outside of China to hold services after their return.

The authorities continued a general crackdown on groups considered to be "cults." These "cults" included not only Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as qigong groups), but also religious groups that authorities accused of preaching beliefs outside the bounds of officially approved doctrine.

Actions against members of such groups continued during the year. In spring police in Liaoning Province sentenced Gu Changrong and Gu Zhaohong, members of the Society of Disciples, to one-year terms of reeducation-through-labor for allegedly preaching to a local CCP member. Police confiscated several Bibles from the home of Gu Zhaohong. Police also continued efforts to close down the underground evangelical group Shouters, an offshoot of a pre-1949 indigenous Protestant group. Government action against the South China Church (SCC) continued. SCC founder Gong Shengliang and other imprisoned SCC members reportedly continued to suffer serious abuses and poor health in prison. Gong was serving a life sentence for rape, arson, and assault, even though the women who testified against him in his original trial in 2001 reported that police had tortured them into signing statements accusing Gong of raping them.

Public Falun Gong activity in the country remained negligible, and practitioners based abroad reported that the government's crackdown against the group continued. In the past, the mere belief in the discipline (even without any public practice of its tenets) sometimes was sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Falun Gong sources estimated that since 1999 at least 6,000 Falun Gong practitioners have been sentenced to prison, more than 100,000 practitioners sentenced to reeducation-through-labor, and almost 3,000 died from torture while in custody. Some foreign observers estimated that Falun Gong adherents constituted at least half of the 250,000 officially recorded inmates in reeducation-through-labor camps, while Falun Gong sources overseas placed the number even higher. In the past, many practitioners were detained multiple times.

Over the past several years, Falun Gong members identified by the government as "core leaders" were singled out for particularly harsh treatment. More than a dozen Falun Gong members were sentenced to prison for the crime of "endangering state security," but the great majority of Falun Gong members convicted by the courts since 1999 were sentenced to prison for "organizing or using a sect to undermine the implementation of the law," a less serious offense. Most practitioners, however, were punished administratively. Some practitioners were sentenced to reeducation-through-labor. Among them, Yuan Yuju and Liang Jinhui, relatives of a Hong Kong journalist working for a television station supportive of Falun Gong, were sentenced to reeducation-through-labor for distributing Falun Gong materials. Some Falun Gong members were sent to "legal education" centers specifically established to "rehabilitate" practitioners who refused to recant their belief voluntarily after their release from reeducation-through-labor camps. Government officials denied the existence of such "legal education" centers. In addition hundreds of Falun Gong practitioners were confined to mental hospitals, according to overseas groups.

Police continued to detain current and former Falun Gong practitioners and used possession of Falun Gong material as a pretext for arresting political activists. In March Chi Jianwei, a member of the CDP, was sentenced to three years in prison for using a cult to undermine implementation of the law, reportedly after authorities found Falun Gong material at his house. Early in the year, authorities sentenced Cui Xin, an elderly resident of Harbin, to seven years' imprisonment for her involvement with Falun Gong. Police confiscated Falun Gong materials from Cui's home following her arrest in December 2006. The government continued its use of high-pressure tactics and mandatory anti-Falun Gong study sessions to force practitioners to renounce Falun Gong. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend anti-Falun Gong classes or were sent directly to reeducation-through-labor camps. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement.

The government supported atheism in schools. In March 2005 a Foreign Ministry spokesperson said the country had no national regulations preventing children from receiving religious instruction but said religion should not interfere with public education. In practice local authorities in many regions barred school-age children from attending religious services at mosques, temples, or churches and prevented them from receiving religious education outside the home.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate "political reliability," and all graduates must pass an examination on their political, as well as theological, knowledge to qualify for the clergy. The government permitted registered religions to train clergy and allowed an increasing number of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies, but some religion students had difficulty getting passports or obtaining approval to study abroad. In most cases foreign organizations provided funding for such training programs.

Authorities continued to prohibit the teaching of Islam to elementary and middle school-age children in some areas, although children studied Arabic and the Koran without restriction in many others. Local officials stated that school-age children may not study religion or enter mosques in the XUAR.

Although Bibles and other religious texts were available in most parts of the country, the government tightly regulated the publication of religious texts and prohibited individuals from printing religious material. The 2005 religious regulations permits authorized religious organizations and venues to compile and print materials for internal and public distribution but requires publications to be prepared in accordance with national regulations. These regulations, in turn, impose strict prior restraints on religious literature, even beyond the restrictions on other types of publications. The regulations also provide for government oversight of the appointment of religious personnel.

On August 31, house church leader Zhou Heng was detained in the XUAR for "illegal business operation." Zhou reportedly had imported three tons of Bibles from South Korea, and he remained in prison at year's end. In April 2006 Pastor Liu Yuhua from Shandong was detained in Linchu County on charges of operating an illegal business after he was found distributing religious texts. In July 2005 Protestant Pastor Cai Zhuohua and two other relatives were sentenced to prison for operating an illegal business, stemming from their large-scale publishing of Bibles and Christian literature without government approval.

According to media reports during the year, XUAR authorities also confiscated 25,000 illegal religious publications. In February 2006 XUAR authorities reportedly raided a minority-language printing market and seized "illegally printed" religious posters. Also in February authorities announced that in 2005 they had seized 9,860 illegal publications involving religion, Falun Gong, or "feudal superstitions." The Xinjiang People's Publication House was the only publisher officially permitted to print Muslim literature.

The supply of Bibles was adequate in most parts of the country, but some members of underground churches complained that the supply and distribution of Bibles, especially in rural locations, was inadequate. Individuals could not order Bibles directly from publishing houses. Customs officials continued to monitor for the "smuggling" of religious materials into the country. Authorities in a few areas reportedly sometimes confiscated Bibles, Korans, and other religious material.

Societal Abuses and Discrimination

There were no reports of societal abuses of religious practitioners or anti-Semitic acts during the year. The government does not recognize Judaism as an ethnicity or religion.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for some of these rights; however, the government generally did not respect them in practice. Although the government maintained restrictions on the freedom to change one's workplace or residence, the national household registration system continued to erode, and the ability of most citizens to move within the country to work and live continued to expand. Authorities heightened restrictions periodically, particularly curtailing the movement of individuals deemed politically sensitive before key anniversaries, visits of foreign dignitaries, and to forestall demonstrations.

The system of national household registration (hukou) underwent further change during the year. Rural residents continued to migrate to the cities, where the per capita disposable income was more than quadruple the rural per capita income, but many could not officially change their residence or workplace within the country. Most cities

had annual quotas for the number of new temporary residence permits that would be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for peasants from rural areas to obtain household registration in more economically developed urban areas.

The household registration system added to the difficulties rural residents faced even after they relocated to urban areas and found employment. In March 2006 the National Bureau of Statistics estimated that there was a floating population of 147.35 million, nearly one-third of which moved between provinces. These economic migrants lacked official residence status in cities, and it was difficult or impossible for them to gain full access to social services, including education. Furthermore, law and society generally limited migrant workers to types of work considered least desirable by local residents, and such workers had little recourse when subjected to abuse by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported that it was difficult to qualify for these benefits in practice.

Many cities and provinces continued experiments aimed at further eroding the distinction between urban and rural residents in household registration documents. At the beginning of the year, the Shenzhen Special Economic Zone delinked the right to participate in the public pension system from workers' hukou status, allowing all workers who have lived in the zone for 15 years and contributed to the pension system to claim benefits.

Under the "staying at prison employment" system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home but were not permitted freedom of movement.

The government permitted legal emigration and foreign travel for most citizens. Most citizens could obtain passports, although those whom the government deemed threats, including religious leaders, political dissidents, and some ethnic minority members continued to have difficulty obtaining passports (see Tibet Addendum). There were reports that some academics faced travel restrictions around the year's sensitive anniversaries, particularly the June 4 anniversary of the Tiananmen Square massacre. There were instances in which the authorities refused to issue passports or visas on apparent political grounds. Members of underground churches, Falun Gong members, and other politically sensitive individuals sometimes were refused passports or otherwise prevented from traveling overseas. In February local authorities blocked prominent HIV/AIDS activist Dr. Gao Yaojie from traveling overseas to receive a human rights award. Following international pressure, authorities relented. On August 24, authorities in Beijing reportedly confiscated the passport of Yuan Weijing to prevent her from traveling overseas to receive a human rights award for her imprisoned husband, legal activist Chen Guangcheng. Also in August authorities denied rights lawyer Zheng Enchong's application for a passport to travel to Hong Kong and Macau. They had previously told Zheng to stop opposing the government and working with human rights groups in Hong Kong.

The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The government continued to refuse reentry to numerous citizens who were considered dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad were allowed to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Activists residing abroad were imprisoned upon their return to the country.

Some 2,445 Tibetans reportedly fled Tibetan areas for India in 2006, most of them teenagers and novice monks and nuns seeking religious education. Police vowed to "strike hard" against such border crossings as part of a campaign against "separatists." While the UN High Commissioner for Refugees (UNHCR) reported that more than 2,000 Tibetans each year crossed into Nepal, the government continued to try to prevent many Tibetans from leaving and detained many who were apprehended in flight (see Tibet Addendum).

Protection of Refugees

Although the country is a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the law does not provide for the granting of refugee or asylum status. The government largely cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country. During the year the government and UNHCR continued ongoing discussions concerning the granting of citizenship to these residents. However, the government continued to deny the UNHCR permission to operate along its northeastern border with North Korea, arguing that North Koreans who crossed the border were illegal economic migrants, not refugees.

The government did not provide protection against refoulement, the return of refugees to a country where there is reason to believe they face persecution. During the year authorities continued to detain and forcibly return North Koreans to North Korea, where many faced persecution and some may have been executed upon their return. Some North Koreans were permitted to travel to third countries after they had entered diplomatic compounds or international schools in the country. There were numerous reports of harassment and detention of North Koreans in the country. The children of some North Korean asylum seekers and of mixed couples (i.e., one Chinese parent and one North Korean parent) reportedly did not have access to health care or education. The government also arrested and detained journalists, missionaries, and activists, including some citizens, who provided food, shelter, transportation, and other assistance to North Koreans. In February police reportedly arrested a foreign national who arranged for five North Korean asylum seekers to travel to South Korea. According to reports, activists or brokers helping North Koreans were charged with human smuggling, and the North Koreans were forcibly returned to North Korea. There were also reports that North Korean agents operated within the country to forcibly repatriate North Korean citizens.

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

The law does not provide citizens with the right to change their government peacefully, and citizens cannot freely choose or change the laws and officials that govern them. The CCP continued to control appointments to positions of political power.

Elections and Political Participation

According to the law, the NPC is the highest organ of state power. Formally, it elects the president and vice president, selects the premier and vice premiers, and elects the chairman of the State Central Military Commission. In practice the NPC Standing Committee, which is composed of 159 members, oversaw these elections and determined the agenda and procedure for the NPC. The NPC Standing Committee remained under the direct authority of the CCP's nine-member Politburo Standing Committee. Despite its broad authority under the state constitution, the NPC does not have power independently to set policy or remove political leaders without the party's approval. In 2003 the NPC confirmed CCP General Secretary Hu Jintao as president, and in 2004 Hu consolidated his power when he was also appointed chairman of the Central Military Commission.

All of the country's approximately one million villages were expected to hold competitive, direct elections to select members of local village committees, which were subgovernment organizations. In June the Ministry of Civil Affairs reported that villages in all 31 provincial-level jurisdictions had held at least two rounds of elections since 1998. Although international monitors who previously observed local village committee elections judged those they observed to have been generally fair, during the year these same monitors reported that officials increasingly resisted allowing them to observe the quality, procedural integrity, and fairness of the village elections. The government estimated that one-third of all elections had serious procedural flaws. Corruption, vote buying, and interference by township-level and party officials continued to be problems. The law permits each voter to cast proxy votes for up to three other voters. Many rural voters cast the maximum number of proxy votes, especially in areas with significant out-migration.

Although the law includes a provision for recalling village committee members, local implementing regulations proved sufficiently vague or cumbersome so as to prevent most attempted recalls. In cases of alleged corruption, a handful of local legislative deputies, but not village heads, were recalled. In 2005 villagers in Guangdong Province's Taishi village were subjected to severe abuse when they tried to recall village chief Chen Jinsheng, whom they accused of embezzling village funds. Authorities resorted to violence, intimidation, and other tactics to quash the recall attempt.

The election law governs elections of legislative bodies at all levels. Under this law, citizens have the opportunity to vote for local people's congress (LPC) representatives

at the county level and below, although in most cases the nomination of candidates in those elections was strictly controlled by the party. Legislators selected people's congress delegates above the county level. For example, provincial-level people's congresses selected delegates to the NPC. Local CCP secretaries generally served concurrently as the head of the local people's congress, thus strengthening party control over legislatures.

During the year independent candidates not selected by local authorities ran or attempted to run in people's congress elections held at the local level across the country. While a small number of independents were elected in some areas, local officials reportedly manipulated and pressured some candidates, who mounted aggressive campaigns to prevent independents from being nominated, and if nominated, from winning. Local police detained and monitored independent candidates, seized campaign materials, and intimidated supporters, family members, and friends. In November 2006 on the eve of LPC elections in Hubei Province, police detained democracy activist and local independent candidate Yao Lifa, reportedly as a means of interfering with his ability to campaign for votes. Some activists also alleged that vote counts were rigged to ensure defeat. In 2006 Taishi villagers failed in their attempt to nominate an independent candidate for local people's congress representative, allegedly because of ballot tampering and an illegal refusal to allow proxy votes.

Although the CCP controlled appointments of officials to government and party positions at all levels, some township, county, and provincial elections featured experiments with increased competition, including self-nomination of candidates, campaign speeches by candidates, public vetting of nominees, and a two-tiered indirect election system.

Official statements asserted that "the political party system China has adopted is multiparty cooperation and political consultation under the leadership of the Communist Party of China." However, the CCP retained a monopoly on political power and forbade the creation of new political parties. The government recognized nine parties founded prior to 1949, but not the CDP, an opposition party founded in 1998 and subsequently declared illegal. Dozens of CDP leaders, activists, and members have been arrested, detained, or confined. One of the CDP's founders, Qin Yongmin, who was imprisoned in 1998, remained in prison at year's end, as did others connected with a 2002 open letter calling for political reform and reappraisal of the 1989 Tiananmen massacre. In September 2006 authorities detained CDP leader Chen Shuqing on suspicion of inciting "to subvert state power," and in August the Hangzhou Intermediate court sentenced Chen to four years' imprisonment and one year's deprivation of political rights. More than 30 current or former CDP members reportedly remained imprisoned or held in reeducation-through-labor camps, including Zhang Lin, Sang Jiancheng, He Depu, Yang Tianshui, Wang Rongqing, and Jiang Lijun.

The government placed no special restrictions on the participation of women or minority groups in the political process. However, women held few positions of significant influence in the CCP or government structure. There was one female member of the 25-member Politburo selected in October. There was also one woman among the five state councilors elected in March 2003. During the year women headed two of the country's 28 ministries.

The government encouraged women to exercise their right to vote in village committee elections and to stand for those elections, although only a small fraction of elected members were women. In many locations, a seat on the village committee was reserved for a woman, who was usually given responsibility for family planning.

Minorities constituted 13.9 percent of the NPC, although they made up approximately 8.4 percent of the population. All of the country's 55 officially recognized minority groups were represented in the NPC membership. The 17th Communist Party Congress elected 40 members of ethnic minority groups as members or alternates on the Central Committee. The only ministerial-level post held by an ethnic minority was the Ethnic Affairs post, and there was one ethnic minority, Vice Premier Hui Liangyu, on the Politburo. Minorities held few senior party or government positions of significant influence.

Government Corruption and Transparency

Corruption remained an endemic problem. The National Audit Office found that 56 ministerial level departments and their affiliates made unauthorized use of approximately \$1.38 billion (RMB 6.87 billion) during the first 11 months of the year. Corruption plagued courts, law enforcement agencies, and other government agencies. In September 2006 foreign citizen Jude Shao was granted a one-year reduction in his 16-year sentence. Shao had been charged with tax evasion for allegedly refusing to pay bribes to local tax auditors. He remained in prison at year's end.

The courts and party agencies took disciplinary action against many public and party officials during the year. According to the SPP's March report to the NPC, prosecutors filed and investigated 33,688 cases of embezzlement, bribery, or dereliction of duty, and they prosecuted 29,966 officials while investigating a total of 40,041 officials in 2006. From January to June, prosecutors investigated 23,700 officials. The CCP's CDIC reported that 97,260 party officials were disciplined for breaking party discipline in 2006. Of these, 3,530 were transferred to judicial organs for investigation of possible violations of law. Inspection committees stripped 21,210 persons of CCP membership, nearly twice the number in 2005. In some cases sanctions administered by the CDIC reportedly substituted for sanctions by courts and other legal agencies. In 1995 the CCP central committee and state council established a policy requiring government officers at director level or above to make financial disclosures, but this policy has not been implemented effectively.

On May 1, the new national freedom of information law came into effect, which allows citizens to obtain information from local governments. Many government ministries, provincial governments, and prefecture-level cities had Web sites, providing some, albeit restricted, information to citizens. However, citizens, local media, and foreign journalists found it difficult to get information about government decision making, especially before decisions were formally announced.

The government experimented with various forms of public oversight of government, including telephone hot lines and complaint centers, administrative hearings, increased opportunity for citizen observation of government proceedings, and other forms of citizen input in the local legislative process, such as hearings to discuss draft legislation. Citizens continued to file administrative lawsuits to seek legal redress against government malfeasance. According to official statistics, 95,052 administrative lawsuits were filed against the government in 2006, slightly fewer than in the previous year. Petitioning officials directly and outside the court system was also a common avenue used by citizens to redress grievances. Official media reported that petitions filed in 2006 decreased by 15.5 percent compared to the number filed in 2005.

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

The government sought to maintain control over civil society groups, halt the emergence of independent NGOs, and prevent what it has called the "westernization" of China. The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions; existing domestic NGOs were harassed. The government tended to be suspicious of independent organizations and increased scrutiny of NGOs with links overseas. Most large NGOs were quasigovernmental in nature, and all NGOs had to be sponsored by government agencies.

An informal network of activists around the country continued to serve as a credible source of information about many human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democracy and the foreign-based Human Rights in China.

When permitted by authorities, the press reported about officials who exceeded their authority and infringed on citizens' rights. However, the government remained reluctant to accept criticism of its human rights record by other nations or international organizations. It criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. Representatives of some international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them. The government-established China Society for Human Rights is an NGO whose mandate was to defend the government's human rights record. The government maintained that each country's economic, social, cultural, and historical conditions influence its approach to human rights.

The ICRC operated an office in Beijing, but the government did not authorize the ICRC to visit prisons. The government continued unofficial discussions on human rights and prisoner issues with a foreign-based human rights group, although the government's cooperation with the group was not as extensive as in previous years.

Section 5 Discrimination, Societal Abuse, and Trafficking in Persons

There were laws designed to protect women, children, persons with disabilities, and minorities. However, in practice some discrimination based on ethnicity, gender, and disability persisted.

Women

Rape is illegal, and some persons convicted of rape were executed. The law does not expressly recognize or exclude spousal rape. According to official statistics, 32,352 cases of rape were reported to police in 2006. Violence against women remained a significant problem. There was no national law criminalizing domestic violence, but the Marriage Law provides for mediation and administrative penalties in cases of domestic violence.

In August 2005 the NPC amended the Law on the Protection of Women's Rights specifically to prohibit domestic violence, although critics complained that the provision failed to define domestic violence. More than 30 provinces, cities, or local jurisdictions passed legislation aimed at addressing domestic violence. In 2006 and 2007, several provinces, including Shaanxi, Guangdong, Gansu, and Zhejiang, passed regulations requiring police to respond immediately to domestic violence calls or face punishment. According to a 2005 survey by the All-China Women's Federation (ACWF), 30 percent of 270 million families had experienced domestic violence, and 16 percent of husbands had beaten their wives. The ACWF reported that it received some 300,000 letters per year complaining about family problems, mostly domestic violence. The actual incidence was believed to be higher because spousal abuse went largely unreported. According to experts, domestic abuse was more common in rural areas than in urban centers. An ACWF study found that only 7 percent of rural women who suffered domestic violence sought help from police. In response to increased awareness of the problem of domestic violence, there was a growing number of shelters for victims. Most shelters were government run, although some included NGO participation.

The law prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations resulted in instances of local birth-planning officials using physical coercion to meet government goals. Such laws and practices required the use of birth control methods (particularly IUDs and female sterilization, which according to government statistics, accounted for more than 80 percent of birth control methods employed) and the abortion of certain pregnancies.

Although prostitution is illegal, experts estimated that there were between 1.7 and five million women involved in prostitution in the country. The commercialization of sex and related trafficking in women trapped tens of thousands of women in a cycle of crime and exploitation and left them vulnerable to disease and abuse. According to state-run media, one out of every five massage parlors in the country was involved in prostitution, with the percentage higher in cities. Up to 80 percent of prostitutes in some areas had hepatitis.

Although the government made some efforts to crack down on the sex trade, media reports claimed that some local officials were complicit in prostitution, owned prostitution venues, or received proceeds from such businesses. Prostitution involved organized crime groups and businesspersons as well as the police and the military. Courts prosecuted persons who organized or procured prostitutes, but actions to curtail prostitution had limited results.

The amended Law on the Protection of Women's Rights included a ban on sexual harassment, stating "the injured woman has the right to complain to the work unit and the relevant department" and may "bring a civil action in court for damages." Legal scholars and activists praised the amendment but emphasized the law should also specifically define what constitutes abusive behavior. Experts continued to suggest that many victims did not report sexual harassment out of fear of losing their jobs.

The constitution states "women enjoy equal rights with men in all spheres of life." The Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. Policies that once allotted work-unit housing only to the husband have become gender neutral, and a 2005 Supreme Court interpretation emphasized that housing rights are shared equally, even in cases of divorce. The State Council's National Working Committee on Children and Women coordinated women's policy. The ACWF was the leading implementer of women's policy for the government. Nonetheless, many activists and observers were concerned that the progress made by women over the past 50 years was eroding. They asserted that the government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability.

The Law on the Protection of Women's Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. According to a survey by the ACWF, 50 percent of female migrant workers, versus 40 percent of male migrants, had no labor contract with their employers. ACWF studies also showed that 21 percent of rural women working in cities were fired after becoming pregnant or giving birth and that some women delay motherhood for fear of losing job and promotion opportunities.

Social organizations and the government made efforts to educate women about their legal rights. During the year over half of 11,669 respondents to a survey conducted by the *People's Daily* Web site reported they had experienced sexual harassment in the workplace.

Women frequently encountered serious obstacles to the enforcement of laws. According to legal experts, it was difficult to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages. As a result very few cases were brought to court. Some observers noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment. Women's rights advocates indicated that, in rural areas, women often forfeited land and property rights to their husbands in divorce proceedings.

Many employers preferred to hire men to avoid the expense of maternity leave and childcare, and some lowered the effective retirement age for female workers to 40 (the official retirement age for men was 60 and for women 55). In addition work units were allowed to impose an earlier mandatory retirement age for women than for men, which limit women's lifetime earning power and career span. Lower retirement ages also reduced pensions, which generally were based on the number of years worked. Job advertisements sometimes specified height and age requirements for women.

Women have less earning power than men, despite government policies that mandate nondiscrimination in employment and occupation.

The UN Economic and Social Council reported that less than 2 percent of women between the ages of 15 and 24 were illiterate. According to 2005 official government statistics, women comprised 73.6 percent of all illiterate persons. In some underdeveloped regions, the female literacy rate lagged behind the male literacy rate by 15 percent or more.

A high female suicide rate continued to be a serious problem. According to the World Bank and the World Health Organization, there were approximately 500 female suicides per day. The suicide rate for females was 25 percent higher than for males. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, the country's birth limitation policies, and other societal factors contributed to the especially high female suicide rate. Women in rural areas, where the suicide rate for women is three to four times higher than for men, were especially vulnerable.

While the gap in the education levels of men and women narrowed, differences in educational attainment remained a problem. Men continued to be overrepresented among the relatively small number of persons who received a university-level education. According to official statistics, in 2005 women accounted for 47.1 percent of undergraduate and college students, 43.4 percent of postgraduate students, and 32.6 percent of doctoral students. Women with advanced degrees reported discrimination in the hiring process as the job distribution system became more competitive and market driven.

Children

The law prohibits maltreatment of children and provides for compulsory education. The State Council's National Working Committee on Children and Women was tasked with carrying out policy toward children. Parents must register their children in compliance with the national household registration system within one month of birth. If children are not registered, they cannot access public services.

The law provides for nine years of compulsory education for children. However, in economically disadvantaged rural areas, many children did not attend school for the required period and some never attended. Public schools were not allowed to charge tuition, but after the central government largely stopped subsidizing primary education, many public schools began to charge mandatory school-related fees to meet revenue shortfalls. Such fees made it difficult for poorer families and some migrant workers to send their children to school.

According to 2006 government statistics, 99.27 percent of children nationwide were enrolled in elementary school. In 2005 the government reported that 51.4 percent of primary school students, 45.7 percent of junior secondary school students, and 44.0 percent of senior secondary school students were girls. It was widely believed that the proportion of girls attending school in rural and minority areas was smaller than in cities. According to a Chinese Academy of Social Sciences report, 61 percent of boys and 43 percent of girls in rural areas completed education higher than lower middle school. The government reported that nearly 20 million children of migrant laborers followed their parents to urban areas. Most children of migrant workers who attended school did so at schools that were unlicensed and poorly equipped.

The law prohibits discrimination against minors with disabilities and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution. Boys and girls have equal access to state-provided medical care.

More than half of all boys and almost a third of all girls have been physically abused, according to survey results released at a 2005 conference in Beijing. The survey reported that 10 percent of boys and 15 percent of girls were sexually abused. These statistics were among those publicized at a National Consultation on Violence against Children, which the government and the UN Children's Fund sponsored. A media ban was also issued after a Nanjing newspaper publicized the forced sterilization of mentally challenged teenagers in Nantong, Jiangsu Province.

The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the National Population and Family Planning Commission, a handful of doctors have been charged with infanticide under this law. Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the coercive birth limitation policy. Many families, particularly in rural areas, used ultrasound to identify female fetuses and terminate pregnancies, even though this practice remained illegal. An official study in Hainan Province found that 68 percent of abortions were of female fetuses. Female babies also suffered from a higher mortality rate than male babies, contrary to the worldwide norm. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys. Neglect of baby girls was one factor in their lower survival rate. One study found the differential mortality rates were highest in areas where women had a lower social status and economic and medical conditions were poor.

Abolition of the system of custody and repatriation in 2003 reduced the number of children detained administratively. Nonetheless, more than 150,000 "street children" lived in cities, according to state-run media. This number was even higher if the children of migrant workers who spend the day on the streets were included.

The law forbids the mistreatment or abandonment of children. The vast majority of children in orphanages were girls, many of whom were abandoned. Boys in orphanages were usually disabled or in poor health. Medical professionals sometimes advised parents of children with disabilities to put the children into orphanages.

The government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those with serious medical problems. Adopted children were counted under the birth limitation regulations in most locations. As a result, couples that adopted abandoned baby girls were sometimes barred from having additional children.

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. Persons convicted of trafficking face criminal sanctions including fines, confiscation of personal property, imprisonment, and, in extreme cases, the death penalty. Victims and their families can also bring civil suits against offenders. During the year, the government increased efforts to combat trafficking, leading to a decline in some forms of trafficking. However, trafficking laws do not fully comply with international standards or cover all forms of trafficking. In September an MPS official stated that the number of reported cases of sexual exploitation and forced labor, which are addressed in the criminal or labor laws rather than the trafficking law, increased. Persons convicted of forced prostitution, abduction, or commercial exploitation of girls under 14 may receive life imprisonment or the death penalty.

The revised law on the protection of minors, which took effect in June, prohibits trafficking, kidnapping, and sexual exploitation of minors. In July the National Antitrafficking Children's Forum brought children's advocates from several provinces together in Beijing to discuss strategies for preventing minors from being trafficked and to draft recommendations for the December 12 to 14 Cooperation Against Trafficking in Persons in the Greater Mekong Subregion Second Ministerial in Beijing.

The country was both a source and destination for trafficking in persons. Most trafficking was internal for the purposes of sexual exploitation, forced labor, and forced marriage. Some cases involved trafficking of women and girls into forced prostitution in urban areas, and some reports suggested that certain victims, especially children, were sold into forced labor. In many cases women and children were lured abroad with false promises of employment and then trafficked into prostitution or forced labor.

Domestic and cross-border trafficking continued to be significant problems, although the exact numbers of persons involved could only be estimated due to a huge itinerant population of approximately 150 million. The MPS reported about 3,000 cross-border trafficking cases but stated this figure as decreasing by approximately 20 percent every year. NGOs estimated the number of victims trafficked internally each year was between 10,000 and 20,000. Between 2001 and 2005, the government resolved more than 27,280 trafficking cases, arrested more than 25,000 traffickers, and rescued more than 54,121 victims. During 2006 a joint China-Burma investigation uncovered a large human trafficking ring that reportedly lured women to China with employment offers and then forced them to marry Chinese men. In May police in Sichuan Province broke up an Internet-based trafficking gang and rescued three women. In June a court in Shandong Province sentenced four people to life in prison for kidnapping a boy and selling him. From January to August, the government investigated more than 2,100 cases of trafficking victims. In 2006 the government investigated 2,569 cases, and provincial governments rescued 371 victims and arrested 415 traffickers. Between June and September 2006, the government improved cooperation with Vietnamese authorities, jointly disrupting 13 trafficking networks and rescuing 193 victims. The government also launched antitrafficking operations with Vietnam, Thailand, and Burma in late 2006. In August border police arrested three traffickers attempting to smuggle 12 teenagers to Canada. In December 2006 the government convicted and sentenced six traffickers to life imprisonment in Anhui Province.

Some experts and NGOs suggested that a shortage of marriageable women fueled the demand for abducted women, especially in rural areas. They argued that the serious imbalance in the male-female sex ratio at birth, the tendency for many village women to leave rural areas to seek employment, and the cost of traditional betrothal gifts all made purchasing a wife attractive to some poor rural men. Some men recruited women from poorer regions, while others sought help from criminal gangs. Criminal gangs either kidnapped women and girls or tricked them with promises of jobs and higher living standards, only to be transported far from their homes for delivery to buyers. Once in their new "family," these women were "married" and sometimes raped. Some accepted their fate and joined the new community, others struggled and were punished, and a few escaped. Some former trafficking victims became traffickers themselves, lured by the prospect of financial gain.

Over the past five years there reportedly was an increase in cross-border trafficking cases, with most trafficked women and girls coming from North Korea, Mongolia, and Vietnam. Others came from Burma, Laos, Russia, and Ukraine. They were trafficked into the country for sexual exploitation, forced marriage, and indentured servitude in domestic service or businesses. North Korean women and girls were trafficked into the country to work in the sex industry and for other purposes. Because the government continued to treat North Korean trafficking victims as economic migrants, they were routinely deported back to North Korea. North Korean women reportedly were sold for approximately \$406 to \$1,358 (RMB 2,900 to RMB 9,700). Women reportedly were also trafficked from Vietnam for the purpose of forced marriage. The UN reported that Chinese citizens were most often trafficked to Malaysia, Thailand, the United Kingdom, and the United States. Second-tier destinations included Australia, European countries, Canada, Japan, Burma, Singapore, South Africa, and Taiwan.

Trafficked persons became entangled with alien smuggling rings, which often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped that their economic prospects would improve. Some reportedly promised to pay from \$32,340 to \$53,900 (RMB 231,000 to RMB 385,000) each for their passage. Upon arrival, many reportedly were forced to repay traffickers for the smuggling charges and their living expenses by working in specified jobs for a set period of time. Living and working conditions for trafficked persons were generally poor. Traffickers restricted

their movements and confiscated their travel documents. Threats to report trafficking victims to the authorities or to retaliate against their families if they protested made trafficked persons even more vulnerable. When arrested and brought to court, human smugglers received five- to 10-year jail sentences and fines up to \$6,468 (RMB 46,200). In very serious cases, courts imposed life imprisonment or the death penalty.

Kidnapping and the buying and selling of children for adoption increased over the past several years, particularly in poor rural areas. There were no reliable estimates of the number of children trafficked. Most children trafficked internally were sold to couples unable to have children, particularly sons. In the past most infants rescued were male, but increased demand for children reportedly drove traffickers to focus on females as well.

NGOs reported an increase in child trafficking, especially in rural areas, and cases of children forced to work as beggars, petty thieves, and prostitutes. Some children worked in factories, but many ended up under the control of local gangs and were induced to commit petty crimes such as purse snatching.

MPS officials stated that repatriated victims of trafficking no longer faced fines or other punishment upon their return. However, authorities acknowledged that some victims continued to be sentenced or fined because of corruption among police, provisions allowing for the imposition of fines on persons traveling without proper documentation, and the difficulty in identifying victims. Trafficking victims often lacked proper identification, which made it difficult to distinguish them from persons who illegally crossed borders. MPS trained border officials to spot potential victims of trafficking, and MPS opened two Border Liaison Offices on the Burma and Vietnam borders to process victims. However, the ACWF reported that ongoing problems continued to require intervention to protect trafficking victims from unjust punishment.

The purchase of women was criminalized in 1991. This decision made abduction and sale separate offenses. There are no legal protections that prohibit forms of trafficking such as debt bondage or commercial sexual exploitation.

There were reports of local officials' complicity in both alien smuggling and in prostitution, which sometimes involved trafficked women. In some cases village leaders sought to prevent police from rescuing women who had been sold to villagers.

The principal organs responsible for combating trafficking or assisting its victims were the MPS, the State Council's Work Committee for Women and Children, and the ACWF. In addition the SPC, the SPP, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council played roles in this area. It was central government policy to provide funds to provincial and local police to house victims and return them to their homes. Government-funded women's federation offices and other women's organizations provided counseling on legal rights, rehabilitation, and other assistance to trafficking victims, although lack of funding reportedly limited services in many areas. The government and NGOs also supported centers in communities with large numbers of migrant laborers, to train members of at-risk groups to avoid being trafficked and to get out of trafficking situations. The government distributed information to combat trafficking, and schools provided antitrafficking training to students. The December 13 National Action Plan (NAP) to combat trafficking, the first of its kind in the country, requested ministries to expand victim services by providing training, rehabilitation, counseling, and other assistance. The NAP required all relevant ministries to draft implementing plans. The ACWF assisted victims in obtaining medical and psychological treatment. Overseas NGOs provided treatment to trafficking victims and conducted educational outreach programs to educate rural youth about the dangers of trafficking.

Persons with Disabilities

The law protects the rights of persons with disabilities and prohibits discrimination; however, conditions for such persons lagged far behind legal dictates, failing to provide persons with disabilities access to programs designed to assist them. According to the official press, all local governments have drafted specific measures to implement the law.

The Ministry of Civil Affairs and the China Disabled Persons Federation, a government-organized civil association, were the main entities responsible for persons with disabilities. In December 2006 the government stated that there were 82.96 million persons with disabilities. According to government statistics, 3,250 educational and vocational centers provided training and job-placement services for persons with disabilities. During the year 572,000 persons with disabilities received education or training. However, some 1.15 million urban and 3.37 million rural persons with disabilities were unemployed. Nationwide 243,000 school-age children with disabilities did not attend school. Nearly 100,000 organizations exist, mostly in urban areas, to serve those with disabilities and protect their legal rights. The government, at times in conjunction with NGOs, sponsored programs to integrate persons with disabilities into society. However, misdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems.

According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, where care was often inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty finding adequate medical care, day care, and education for their children. Government statistics showed that almost one-quarter of persons with disabilities lived in extreme poverty. Unemployment among adults with disabilities remained a serious problem. Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; compliance with the law was lax. Students with disabilities were discriminated against in access to education. The law permits universities legally to exclude otherwise qualified candidates from higher education.

The law forbids the marriage of persons with certain acute mental illnesses, such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of healthy births. Media reports publicized the forced sterilization of mentally challenged teenagers in Nantong, Jiangsu Province.

National/Racial/Ethnic Minorities

According to the 2005 national population survey, the population of the country's 55 officially recognized ethnic minorities totaled 123 million, or 9.44 percent of the total population. Additionally some citizens identified themselves as members of unrecognized ethnic minorities. Most minority groups resided in areas they traditionally inhabited. Government policy calls for members of recognized minorities to receive preferential treatment in birth planning, university admission, access to loans, and employment. In 2005 new regulations designed to enhance minority preferences in education became effective. Nonetheless, in practice the majority Han culture often discriminated against minorities. Most minorities in border regions were less educated, and job discrimination in favor of Han migrants remained a serious problem even in state-owned enterprises. Racial discrimination was the source of deep resentment in some areas, such as the XUAR, Inner Mongolia, and Tibetan areas. As part of the government's emphasis on building a "harmonious society," the government downplayed racism against minorities and tension among different ethnic groups.

Incomes in minority areas remained well below those in other parts of the country, particularly for minorities. Han Chinese benefited disproportionately from government programs and economic growth. Many development programs disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons.

The government's policy to encourage Han migration into minority areas resulted in significant increases in the population of Han Chinese in the XUAR. According to 2005 statistics published by XUAR officials, 7.98 million of the XUAR's 20 million official residents were Han. Hui, Kazakhs, Kyrgyz, Uighur, and other ethnic minorities comprised approximately 12 million XUAR residents. Official statistics understated the Han population, because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers."

Minorities constituted 14 percent of the NPC, which was higher than their percentage in the population. According to a 1999 government report, 2.9 million minority officials served in the government. According to the government, at the end of 2005 30.59 percent of Inner Mongolia's cadres were ethnic minorities. A government report stated that ethnic minority representation in local people's congresses nationwide was 12 percent, including 62.7 percent in the XUAR, 68.2 percent in the TAR, 58.8 percent in Guangxi, 59.8 percent in Ningxia, and 40.7 percent in Inner Mongolia. Nonetheless, Han officials held most of the most powerful party and government positions in minority autonomous regions, particularly the XUAR. In February the government launched an 11th Five-Year Plan for Ethnic Minorities Affairs, to perfect the

"ethnic minority autonomous system," hasten the "safeguarding of ethnic minorities' legal rights," and strengthen "socialist ethnic relations" based on "equality, solidarity, mutual assistance, and harmony." The 11th Five-Year Plan calls for "establish[ing] a system to monitor the ethnic relationships," cracking down on "ethnic separatists in accordance with the law," and safeguarding "ethnic unity, social stability and national security."

The migration of ethnic Han into the XUAR in recent decades caused the Han-Uighur ratio in the capital of Urumqi to shift from 20 to 80 to 80 to 20 and was a deep source of Uighur resentment. Discriminatory hiring practices gave preference to Han and discouraged job prospects for ethnic minorities. In June 2006 the Xinjiang Production and Construction Corps announced that it would recruit 840 employees from the XUAR designating nearly all of the job openings for Han Chinese. While the government promoted Han migration into the XUAR, overseas human rights organizations alleged that government-sponsored labor programs forced Uighur girls and young women to work in factories in eastern China on false pretenses and without regular wages.

The XUAR government tightened measures that diluted expressions of Uighur identity, including measures to reduce education in ethnic minority languages and to institute language requirements that disadvantage ethnic minority teachers. The government continued moving away from the two-track school systems that used either standard Chinese or the local minority language and toward a new system that required schools to teach both standard Chinese and local minority languages or to teach standard Chinese only. Prior to adopting the new policy, the vast majority of Uighur children in the XUAR attended Uighur-language schools and generally received an hour's Chinese-language instruction per day. Graduates of minority language schools typically needed intensive Chinese study before they could handle Chinese-language course work at a university. The dominant position of standard Chinese in government, commerce, and academia put graduates of minority-language schools who lacked standard Chinese proficiency at a disadvantage. Koranic education was tightly controlled, and use of Arabic in public schools was forbidden.

Since 2001 authorities have increased repression in the XUAR, targeting in particular the region's ethnic Uighur population. In January XUAR Party Secretary Wang Lequan again urged government organs to crack down on the "three forces" of religious extremism, "splittism," and terrorism, and to "firmly establish the idea that stability overrides all." It was sometimes difficult to determine whether raids, detentions, and judicial punishments directed at individuals or organizations suspected of promoting the "three forces," were instead actually used to target those peacefully seeking to express their political or religious views. The government continued to repress Uighurs expressing peaceful political dissent and independent Muslim religious leaders, sometimes citing counterterrorism as the reason for taking action. On January 5, police raided a suspected East Turkestan Islamic Movement training camp in the southern XUAR, killing 18 Uighurs. One police officer also died. Exiled Uighur leaders questioned the motives behind the raid and claimed that the government had not produced evidence establishing that the training camp had terrorist links. In December 2003 the government published an "East Turkestan Terrorist List," which labeled organizations such as the World Uighur Youth Congress and the East Turkestan Information Center as terrorist entities. These groups openly advocated East Turkestan independence, but only one group, the East Turkestan Islamic Movement, was designated by the UN as a terrorist organization.

Uighurs were sentenced to long prison terms, and in some cases executed, on charges of separatism. On February 8, authorities executed Ismail Semed, an ethnic Uighur from the XUAR, following convictions in 2005 for "attempting to split the motherland" and other counts related to possession of firearms and explosives. During his trial Semed claimed that his confession was coerced. Semed was forcibly returned from Pakistan in 2003. On April 19, foreign citizen Huseyin Celil was sentenced to life in prison for allegedly plotting to split the country and 10 years in prison for belonging to a terrorist organization, reportedly after being extradited from Uzbekistan and tortured into giving a confession. Although Celil was granted Canadian citizenship, Chinese authorities refused to recognize this and consequently denied Celil access to consular officials. During the year the government reportedly sought the repatriation of Uighurs living outside the country, where they faced the risk of persecution.

In June 2006 authorities charged Alim, Ablikim, and Qahar Abdureyim, three of Uighur activist and businesswoman Rebiya Kadeer's sons, with state security and economic crimes. In April Ablikim was sentenced to nine years in prison and three years deprivation of political rights, reportedly after confessing to charges of "instigating and engaging in secessionist activities." In November 2006 Alim was sentenced to seven years in prison and fined \$62,500 (RMB 446,429).

Possession of publications or audiovisual materials discussing independence or other sensitive subjects was not permitted. According to reports, possession of such materials resulted in lengthy prison sentences. In 2005 writer Abdulla Jamal was detained in the XUAR, reportedly for writings that promoted Uighur independence. Other Uighurs who remained in prison at year's end for peaceful expression included Tohti Tunyaz, Adduhelil Zunun, Abdulghani Memetemin, Nurmuhemmet Yasin, and Korash Huseyin.

During the year officials in the region defended the campaign against separatism as necessary to maintain public order and continued to use the threat of violence as justification for extreme security measures directed at the local population and visiting foreigners.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies brought economic improvements to the XUAR, Han residents received a disproportionate share of the benefits.

(See also the Tibet addendum.)

Other Societal Abuses and Discrimination

The household registration system continued to result in widespread discrimination against citizens from rural areas. Because they could not change their household registrations, many migrants living and working in urban areas were denied access to public services such as education and health care, as well as pension benefits, unemployment, and other social insurance programs. Where public services were available to migrant families, they rarely reached a standard equal to those of registered urban residents.

No laws criminalize private homosexual activity between consenting adults. According to the Ministry of Health, the country has approximately 30 million homosexuals between the ages of 15 and 60. Societal discrimination and strong pressure to conform to family expectations deterred most gay individuals from publicly discussing their sexual orientation. Published reports stated that more than 80 percent of gay men married because of social pressure.

Under the new contagious disease law and adopted regulations, employment discrimination against persons with HIV/AIDS and hepatitis B is forbidden, and provisions allow such persons to work as civil servants. However, discrimination against the estimated 700,000 persons with HIV/AIDS and approximately 120 million hepatitis B carriers (including 20 million chronic carriers) remained widespread in many areas. Hospitals and physicians sometimes refused to treat HIV-positive patients. During the year a number of hepatitis B carriers sued local government institutions to enforce their rights to work and study. While they won judgments in some cases, widespread discrimination remained. In October 2006 the Ministry of Health criticized local officials in Urumqi, XUAR, for expelling 19 hepatitis B carriers from public schools. The criticism was carried in the national press, but no remedies were reported.

Persons with HIV/AIDS likewise suffered discrimination and local governments sometimes tried to suppress their activities. In July officials in Guangzhou forced organizers to cancel an international conference on the legal rights of HIV/AIDS patients. At the same time, international involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in some localities. Some hospitals that previously refused to treat HIV/AIDS patients have active care and treatment programs, because domestic and international training programs improved the understanding of local healthcare workers and their managers. In Beijing dozens of local community centers encouraged and facilitated HIV/AIDS support groups.

Some NGOs working with HIV/AIDS patients and their family members continued to report difficulties with local government, particularly in Henan Province, where thousands were infected in government-run blood-selling stations during the 1990s. Henan authorities were successful in providing free treatment to persons with HIV/AIDS. However, foreign and local observers noted that local governments were reluctant or even hostile toward coordinating efforts with NGOs and preferred to work independently.

Scholarly studies by Chinese indicated that discrimination in employment based on height and physical appearance was both legal and common.

Section 6 Worker Rights

a. The Right of Association

Although the law provides for the freedom of association, in practice workers were not free to organize or join unions of their own choosing. Workers cannot choose an independent union to represent them in the workplace, as independent unions are illegal. The All-China Federation of Trade Unions (ACFTU), which was controlled by the CCP and chaired by a member of the Politburo, was the sole legal workers' organization. The trade union law gives the ACFTU control over all union organizations and activities, including enterprise-level unions, and requires the ACFTU to "uphold the leadership of the Communist Party." Direct election by workers of union leaders is rare, occurs only at the enterprise level, and is subject to supervision by higher levels of the union or Communist Party organization. The ACFTU and its constituent unions influenced and implemented government policies on behalf of workers.

Already established in the state-owned sector, where union representatives frequently held senior management positions, the ACFTU continued the campaign it began in 2006 to organize unions in foreign-invested enterprises. Labor laws make no distinction between domestic and foreign-invested enterprises with respect to the establishment of unions. During the year the ACFTU reported that it had 1,322,000 labor unions with membership of 170 million workers as of the end of 2006, and that it had established unions in 54.5 percent of foreign-invested enterprises. ACFTU made efforts to encourage rural migrants working in the cities to join or form ACFTU unions.

Although the law states that trade union officers at each level should be elected, most were appointed by higher levels of the ACFTU, often in coordination with employers. In enterprises where direct election of union officers took place, regional ACFTU offices and local party authorities retained control over the selection and approval of candidates.

The trade union law provides specific legal remedies against antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Collective contract regulations provide similar protections for employee representatives during collective consultations. The degree to which these provisions were enforced was unknown. ACFTU officials and other observers reported that such protections were difficult to enforce in practice.

Some workers acted outside the ACFTU structure to demand back wages, pension, or health insurance contributions, or other benefits owed by employers. The government took action against some of these workers, especially when they engaged in organized campaigns. Some workers who complained to local labor and social security bureau offices about working conditions reported that they faced harassment from their employers and police and sometimes from labor bureau officials. Labor rights activists complained throughout the year of police surveillance, including interviews with police.

In April the Jingzhou district court in Hubei sentenced Zhou Yuanwu, who led workers' protests at the Jingzhou Brewery in 2006, to 30 months in prison for "obstructing public officers in performance of their duties." Zhou's advocate denied the charge that Zhou struck a police officer in 2006, when police attempted to bring Zhou to court without a subpoena. In a December 6 letter to President Hu Jintao, the International Trade Union Confederation (ITUC) general secretary protested the November sentencing of Li Guohong, a representative of workers dismissed from positions at the Zhongyuan Oil Field (ZOF) in Henan Province, to 18 months of reeducation-through-labor. The ITUC reported that Li Guohong was detained on October 31 when he inquired about earlier detentions of ZOF workers. Other labor activists detained in previous years were reportedly still in detention at year's end. These included Yao Fuxin, Hu Shigen, Wang Sen, Zhang Shanguang, He Zhaohui, Yue Tianxiang, Miao Jinhong, Ni Xiafei, Huang Xiangwei, Li Xintao, Gao Hongming, Zha Jianguo, Hu Mingjun, Li Wangyang, Liu Zhihua, Luo Mingzhong, Luo Huiquan, Kong Youping, Ning Xianhua, Li Jianfeng, Lin Shun'an, Chen Wei, She Wanbao, and Zhu Fangming. Family members of some imprisoned labor activists reported surveillance and harassment by public security officials.

In a November 26 letter to the mayor of Shenzhen, the ITUC general secretary protested a widely reported series of attacks against a Shenzhen-based labor advice and support center, including one on November 20 in which the center's director, Huang Qingnan, was stabbed and seriously wounded. At year's end no arrests were made in the case. The ITUC also protested violence against workers claiming unpaid wages and urged the government and police to ensure the safety of labor activists and their organizations.

b. The Right to Organize and Bargain Collectively

The labor law permits collective bargaining for workers in all types of enterprises; however, in practice collective bargaining fell far short of international standards. Under the law, collective contracts are to be developed through collaboration between the labor union and management and should specify such matters as working conditions, wage scales, and hours of work.

The trade union law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. Regulations required the union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval. There is no legal obligation for employers to negotiate.

At year's end, ACFTU reported that there were more than 800,000 collective contracts in place, covering 1.5 million enterprises. However, the majority were prefabricated contracts adopted without negotiation. Collective contracts generally reflected statutory minimums labor standards. The majority of collective contracts did not address the issue of wages.

The law does not protect workers' right to strike. The trade union law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers interpreted this provision to offer a theoretical legal basis for the right to strike. However, the government continued to treat worker protests as illegal demonstrations. Without the right to strike, workers had only a limited capacity to influence the negotiation process. In the private sector, where active labor unions were rare and alternative union organizations had no legal standing to negotiate, workers faced heightened obstacles to bargaining collectively with management.

In some cases, workers did strike to demand better conditions and benefits. In April workers at the Yantian Container Port in Shenzhen, Guangdong Province, reportedly went on strike for one day to demand higher wages and creation of a labor union. Local labor officials reportedly intervened to resolve the strike. Two weeks later the press reported that 300 workers at a garment factory, also in Yantian, went on strike when management demanded workers sign new labor contracts that contained policy changes to wage and hours that had not been negotiated with workers. Management of a printing plant in Dongguan, Guangdong, reportedly fired workers who went on strike to protest inaccurate overtime calculations. The managers claimed to have the approval of the local government for their actions. On July 18, up to several thousand transport workers in Jinzhou, Liaoning Province, launched a strike to protest wage issues and the privatization of the city's bus company.

The law provides for labor dispute resolution through a three-stage process: mediation between the parties, arbitration by officially designated arbitrators, and litigation. According to the Ministry of Labor and Social Security, between 2001 and 2006, the number of labor disputes accepted by arbitration commissions more than doubled, while the number of workers involved in officially registered labor disputes increased by 45 percent. Government officials and academics attributed the rising number of officially recorded disputes to both increasing labor unrest and the government's improving ability to handle and keep track of disputes.

During the year there were numerous media accounts of worker protests involving actual or feared job loss, wage or benefit arrears, dissatisfaction with new contracts offered in enterprise restructuring, failure to honor contract terms, or discontent over substandard conditions of employment. In April 500 workers at the Huaxing Light Manufacturing in Shenzhen, Guangdong Province, protested inadequate severance pay for laid-off employees. In May workers organized a strike and blocked factory premises at Eitop Electronics in Shenzhen to demand back wages and severance pay before the factory relocated to another city. In June there was a strike and factory blockade at the Yongxing Toy Company in Dongguan, Guangdong, after more than 2,000 workers reportedly demanded 10 weeks' back wages. The press also reported some instances of labor unrest leading to violence. In April at a textile factory in Fuyang, Anhui Province, police responded with force to workers who blocked roads and

railways and rushed a hotel. In May private security guards wielding iron bars injured nine workers demanding back wages at a construction company in the Baiyun district of Guangzhou. In June in Heyuan City, Guangdong Province, private security guards armed with steel pipes and tools reportedly attacked unarmed migrant workers in a contract dispute, seriously injuring at least seven and killing one.

There are no special laws or exemptions from regular labor laws in export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor, including by children, but such practices occurred. In May and June, domestic media uncovered a massive network of forced labor at brick factories in Shanxi and Henan provinces. By mid-August a central government-organized joint task force reported that it had inspected 277,000 brick kilns and other small-scale enterprises nationwide and had rescued 1,340 workers from forced labor conditions, including 367 workers with mental disabilities and an undisclosed number of children. In Shanxi alone authorities rescued 359 workers, including 121 persons with mental disabilities and 15 underage workers. The local government sentenced one person to death and 28 other persons to prison terms of up to life for their roles in these cases, but government officials found complicit in the cases received only administrative penalties.

Forced labor remained a serious problem in penal institutions. Many prisoners and detainees in reeducation-through-labor facilities were required to work, often with no remuneration. There is no effective mechanism to prevent the export of goods made under such conditions.

It remained common for employers to withhold several months' wages, or to require unskilled workers to deposit several months' wages, as security against the workers departing early from their labor contracts. This practice prevented workers from exercising their right to leave their employment. Although this practice was illegal, the government did not emphasize controlling it.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 16, but the government had not adopted a comprehensive policy to combat child labor. The labor law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children's subsistence. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including labor in mines.

A decree prohibiting the use of child labor provides that businesses illegally hiring minors or in whose employ a child dies will be punished via administrative review, fines, or revocation of their business license. The decree further provides that underage children found working should be returned to their parents or other custodians in their original place of residence.

Reliable statistics on the prevalence of child labor were not available, but the government acknowledged the problem and noted that it was relatively prevalent in certain industries. The government also maintained that the country did not have a widespread child labor problem and that the majority of children who worked did so to supplement family income, particularly in impoverished rural areas.

While poverty remained the main reason for child labor, inadequacy of the mandatory education system, rising market demand, labor shortages, and the potential child labor supply in the informal labor market also contributed to this problem. Although nine years of education (through age 16) is compulsory, the high cost of basic education caused some children to drop out of school to work; other children worked while in school.

There were new reports during the year of cases in which school officials colluded with employers to supply low-cost child labor to factories under the guise of "work-study" programs. In June a report issued by a Hong Kong-based labor NGO on the abuse of "work study" programs observed that "students have no say in the terms and conditions of their employment and have little or no protection from abusive work practices."

In June reports of forced child labor at brick kilns in Shanxi Province again drew attention to the problem of child labor nationwide. In another well-publicized case in August 2006, authorities in Ningbo rescued over 70 middle-school students used as laborers at a grape cannery under the guise of a summer work-study program. There were sporadic cases in the export sector as well, where social compliance auditors from foreign buyers reported that the incidence of child labor in suppliers' factories, though still low, appeared to be rising. In June a Guangdong factory licensed to produce products bearing the 2008 Olympics logo admitted to employing workers under the age of 16, after an international NGO published a report on working conditions at the factory. The Beijing Organizing Committee for the Olympic Games subsequently terminated the company's license to manufacture Olympic items.

e. Acceptable Conditions of Work

There was no national minimum wage, but the labor law requires local governments to set their own minimum wage according to standards promulgated by the Ministry of Labor and Social Security. These standards include the minimum cost of living for workers and their families, levels of economic development and employment in the area, as well as the level of social insurance and other benefits contributions paid by the employees themselves. The regulation states that labor and social security bureaus at or above the county level are responsible for enforcement of the law. It provides, that where the ACFTU finds an employer in violation of the regulation, it shall have the power to demand that the Department of Labor and Social Security deal with the case.

During the year many cities increased their minimum wages, typically by 10 to 15 percent, to keep up with a rising cost of living. Nevertheless, the minimum wage system was not fully implemented, and there was no regular mechanism in most locations for increasing wages. In many locations shortages of unskilled labor continued to push actual wages up. A midyear nationwide survey by the National Bureau of Statistics found that rural and urban incomes had increased by 13.3 and 17.6 percent, respectively, over the previous year.

Wage arrearages remained common, especially among migrant workers. Some migrant workers received wages once a year, when settling with employers prior to returning home for the lunar New Year. The government reported progress in its efforts to prevent arrearages and recover payment of missing wages and insurance contributions. Legal aid lawyers and government sources reported that nonpayment or underpayment of wages accounted for more than half of all cases handled through the labor dispute resolution system.

Other widespread illegal practices effectively reduced workers' wages. These included arbitrary fines and wage deductions levied by employers for alleged breaches of company rules. Many employers used an "extended shift" system, in which the employer sets an unrealistic production target that workers cannot achieve within designated work hours, forcing workers to work overtime without additional compensation to meet the target, sometimes resulting in actual hourly wages that are below the legal minimum wage. The illegal practice of collecting wage deposits or paying wages in arrears to prevent workers from quitting their jobs without the employer's consent remained a common complaint.

The labor law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of three hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, in practice compliance with the law was weak, and standards were regularly violated, particularly in the private sector and in enterprises that used low-skilled migrant or seasonal labor. In some cases local labor bureaus formally approved employers' overtime policies that exceeded the legal maximum. Social auditors found that factories routinely falsified overtime and payroll records.

The State Administration for Work Safety (SAWS) also acknowledged that occupational health and safety concerns remained serious.

Inadequate and poorly enforced occupational health and safety laws and regulations continued to put workers' health and lives at risk. In April more than 30 workers were killed at the Qinghe Special Steel plant in Liaoning Province when a cauldron of molten steel broke loose and spilled into a conference room. The initial SAWS investigation concluded that "chaotic" management, poor safety practices, and major equipment problems all contributed to the accident.

Overall there was a decline in reported accidents and fatalities compared to the previous year. Between January and October, official statistics reported that industrial accidents killed 11,109 workers, a decrease of 6.1 percent from the previous year.

The coal industry continued to suffer the largest number of accidents and fatalities. During the year there were 3,770 reported coal mine fatalities, 20 percent fewer than in 2006. About two-thirds of coal mine accidents occurred in small mines, which accounted for only one third of the country's coal production. The drop in reported fatalities reflected, in part, the success of government efforts to improve mine safety, including through a policy of consolidating the industry into larger, better regulated mining companies. SAWS reported that over the past two years the government had closed 11,155 small coal mines. Although reported coal mine fatalities decreased in absolute terms, the fatality rate remained very high by international standards. There were 2.4 coal mine fatalities per million metric tons of coal produced in 2006. Legislative and mine safety experts reported that mine safety problems stemmed from an inadequate legal framework, weak penalties, poor mine supervision, noncompliance with mine safety regulations and mine closure orders, and inadequate training for mine inspectors, mine operators, and miners. In August 181 coal miners in Xintai, Shandong Province, were trapped and killed one day after local mine safety authorities warned mines in the area to cease operations because of torrential rains.

On December 5, 105 miners were killed in a gas explosion in a coal mine in Shanxi Province. There were numerous other reports of smaller-scale fatal coal mine accidents throughout the year. Many factories that used harmful materials or processes not only failed to protect their workers against the ill effects of such materials or processes but failed to inform them about the hazards, neglected to provide them with health inspections as required by law, and when they fell ill, denied their claims for compensation.

The government reported that, by year's end, 120 million workers participated in the country's work-injury insurance system, an increase of 18 percent over 2006. However, NGOs reported that local labor and social security bureaus frequently rejected claims for compensation by workers, because employers failed to provide them with documentation as required by law. Workers showed a willingness to use lawsuits to pursue injury and illness claims against employers, but access to legal aid was limited.

The work safety law states that employees have the right, after spotting an emergency situation that threatens their personal safety, to evacuate the workplace. Employers are forbidden to cancel the labor contracts or reduce the wages or benefits of any employee who takes such action. In practice such protective provisions were difficult to enforce. There were reports of serious accidents in which miners were killed when mine managers forced them to continue working under unsafe conditions.

While many labor laws and regulations were fully compatible with international standards, implementation and enforcement were generally poor. In addition labor contracts were executed rarely or contained terms inconsistent with the law. The lack of written labor contracts made it much more difficult for workers whose rights had been violated to seek redress through administrative processes or through the courts. The widespread use of labor contracting agencies to supply manpower also created legal gray areas that made labor law enforcement more difficult.

TIBET

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China (PRC). The Tibetan population within the TAR was approximately 2.8 million, while in autonomous prefectures and counties outside the TAR the Tibetan population was an estimated 2.9 million. The government strictly controlled information about, and access to, the TAR and, to a lesser extent, Tibetan areas outside the TAR, making it difficult to determine accurately the scope of human rights abuses.

The government's human rights record in Tibetan areas of China remained poor, and the level of repression of religious freedom increased. Authorities continued to commit serious human rights abuses, including torture, arbitrary arrest and detention, and house arrest and surveillance of dissidents. The government restricted freedom of speech, academic freedom, and freedom of movement. The government adopted new regulations and other measures to control the practice of Tibetan Buddhism, including measures that require government approval to name all reincarnated lamas. The preservation and development of the unique religious, cultural, and linguistic heritage of Tibetan areas and the protection of the Tibetan people's other fundamental human rights continued to be of concern.

Deprivation of Life

In contrast with 2006, there were no reports that government security agents killed persons during the year.

There were no developments in the investigation of the September 2006 shooting at the Nangpa La pass, in which People's Armed Police (PAP) killed Kelsang Namtso and injured others in a group of approximately 70 Tibetans attempting to enter Nepal.

There were no developments in the 2005 death of monk Ngawang Jangchub.

Disappearance

In April authorities arrested Phuntsok Gyaltsen, the deputy head of Phurbu Township, Palgon County, TAR. At year's end his whereabouts were unknown.

The whereabouts of 19-year-old monk Thubten Samten, reportedly arrested in May 2006, remained unknown at year's end. There was no information on the location of 13 Tibetans arrested near Tingri in June 2006. The whereabouts of Lhadon, a Kangma Middle School teacher in Kangma County, TAR, arrested in 2006, were unknown.

The whereabouts of the Panchen Lama, Tibetan Buddhism's second most prominent figure after the Dalai Lama, and his family remained unknown. Government officials continued to claim he was under government supervision at an undisclosed location.

Torture and Other Degrading Treatment

In early September authorities detained seven ethnic Tibetan school children ages 14 and 15 in the Gannan Tibetan Autonomous Prefecture (TAP) of Gansu Province for allegedly writing slogans on public buildings calling for the return of the Dalai Lama. The children were held until fines were paid. According to reports, during their incarceration they were severely beaten and subjected to electric shocks. One child was released to a hospital for treatment after sustaining serious injuries believed to be the result of beatings.

Tibetans seeking to flee to India and other countries overland via Nepal risked violence and arrest at the hands of security forces. On October 18, PAP border guards reportedly fired on a group of 46 Tibetans attempting to enter Nepal at the Nangpa La pass. Three Tibetans reportedly were arrested and nine were missing; the remainder reached Nepal.

The security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. Tibetans repatriated from Nepal reportedly continued to suffer torture and other abuse in detention centers, including electric shocks, exposure to cold, and severe beatings, and were forced to perform heavy physical labor. Many were required to pay fines upon release.

In a Radio Free Asia (RFA) report in April, monk Sonam Dorje, who served a 13-year jail term in Lhasa's Drapchi Prison, described torture used by Chinese prison guards. He reported that the guards used rubber tubes filled with sand, electric batons, and iron tongs to beat the prisoners, and he said they were kept in solitary confinement for up to a month at a time.

Approximately 30 Tibetans captured at the Nangpa La pass in September 2006 remained in detention in a labor camp.

A group of 23 Tibetans captured at the Nangpa La pass in 2005 also remained in detention. The whereabouts of 27 other persons in the same group were unknown.

Prison Conditions

Prisoners in Tibetan areas were generally subject to the same prison conditions as in other areas of the country. Forced labor was used in some prisons, detention centers, reeducation-through-labor facilities, and prison work sites. The law states that prisoners may be required to work up to 12 hours per day, with one rest day every two weeks, but these regulations often were not enforced. Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in regular prisons.

Arbitrary Arrest or Detention

Arbitrary arrest and detention remained serious problems in Tibetan areas. By law police may detain persons for up to 37 days without formally arresting or charging them. After the 37-day period has expired, police must either formally arrest the detainees or release them. The relatives or employer of a person arrested must be notified within 24 hours of the arrest. In practice police frequently violated these requirements.

Political Prisoners and Detainees

Due to the lack of independent access to prisoners and prisons, it was difficult to ascertain the number of Tibetan political prisoners. According to sources, the overall number of reported political prisoners in Tibetan areas dropped to 95, compared with 105 in 2006. However, the number of persons known to be detained for political reasons during the year rose to 24 from 13 in 2006. Based on information available for 70 political prisoners, the average sentence was 10 years and 11 months, and 67 percent were monks or nuns. Sources showed that 48 Tibetan political prisoners were imprisoned in the TAR, 34 in Sichuan Province, six in Qinghai Province, four in Gansu Province, and three in Beijing.

An unknown number of Tibetans were serving sentences in reeducation-through-labor camps and other forms of administrative detention not subject to judicial review.

On January 8, plainclothes officers reportedly arrested Jamyang Gyatso, a monk from Gansu Province. Local residents speculated that he was detained for helping persons listen to RFA broadcasts. Gyatso was beaten while in prison and released in September.

In January the Tibetan Centre for Human Rights and Democracy (TCHRD) reported the February 2006 detention of Buchung, a monk from Tashilhunpo Monastery. Buchung reportedly had a compact disc containing the Dalai Lama's 2006 Kalachakara teaching. At year's end there was no information on whether he had been charged or sentenced.

In January the RFA reported the December 2006 arrest of Penpa, a village leader from Dingri County in Shigatse Prefecture, TAR. Police reportedly searched Penpa's home and found materials relating to the Kalachakara teachings of the Dalai Lama. TibetInfoNet reported that in February Penpa was sentenced to three years in Nyari Prison in Shigatse.

On July 16, according to the TCHRD, Khenpo Jinpa, the abbot of Chogtsang Talung Monastery in Ganzi (Kardze) TAP, Sichuan Province, was sentenced to three years in prison on charges of endangering national security. The TCHRD reported that Khenpo Jinpa was detained in August 2006 and accused of distributing leaflets in support of Tibetan independence and the Dalai Lama.

On August 1, ethnic Tibetan Rongye Adrak was arrested in the Ganzi TAP after calling for the Dalai Lama's return at a public event. On November 20, the Ganzi Intermediate People's Court convicted him of inciting separatism and sentenced him to eight years in prison. Senior monk Adak Lupoe, who is Rongye Adrak's nephew, as well as Jarib Lothog and art teacher and musician Kunkhyen were subsequently arrested and convicted of leaking intelligence and endangering national security after they attempted to provide pictures and information concerning Rongye Adrak's arrest to foreign organizations. Lupoe received a 10-year sentence, Kunkhyen nine years, and Luthog three years.

The following persons remained in prison: Dawa (also called Gyaltzen Namdak), sentenced in October 2006 to five years' imprisonment for allegedly distributing pamphlets containing political material; monk Lobsang Palden from Ganzi Monastery, charged in September 2006 for initiating separatist activities based on his alleged possession of photographs of the Dalai Lama; teacher Dolma Kyab; Sherab Yonten, Sonam Gyelpo, and two others; and monk Tsering Dhondup.

There was no information regarding the following 2006 cases: six Tibetans from Sichuan Province detained for allegedly advocating Tibetan independence; former nun Yiga and lay women Sonam Choetso and Jampa Yangtso, all from the Ganzi TAP and detained in Lhasa; layman Kayi Doega and nun Sonam Lhamo, detained in the Ganzi TAP; and Yiwang, a 17-year-old Tibetan girl from the Ganzi TAP.

The status of the following persons arrested in 2005 remained unconfirmed at year's end: nuns Choekyi Drolma and Tamdrin Tsomo; monks Namkha Gyaltzen, Dargyal Gyatso, and Jamyang Sambdrub; monk and teacher of traditional monastic dance Gendun; and monks Ngawang Namdrol, Ngawang Nyingpo, Ngawang Thupten, Ngawang Phelegey, and Phuntsok Thupwang from Drepung Monastery in Lhasa.

Jigme Gyatso and Bangri Chogtrul Rinpoche remained in prison at year's end, as did monk Choeying Khedrub from Nagchu Prefecture, sentenced to life in prison in 2001 on charges of "endangering state security" and "supporting splittist activities." He was one of two Tibetans known to be serving life sentences for political offenses. The other was Tenzin Delek Rinpoche, a senior monk imprisoned for allegedly setting explosives and inciting separatism.

Chadrel Rinpoche remained under house arrest; officials denied requests by foreign diplomats to visit him.

Denial of Fair Public Trial

Legal safeguards for Tibetans detained or imprisoned were inadequate in both design and implementation. Most judges in the TAR had little or no legal training. According to a TAR Bureau of Justice official, all seven cities and prefectures had established legal assistance centers that offered services in the Tibetan language. Prisoners may request a meeting with a government-appointed attorney, but in practice many defendants did not have access to legal representation. In cases involving state security, trials were often cursory and closed. By law maximum prison sentences for crimes such as "endangering state security" and "splitting the country" are 15 years for each count, not to exceed 20 years in total. Such sentences are frequently given to Tibetans for alleged support of Tibetan independence regardless of whether such activities involved violence.

Freedom of Speech and Press

The Chinese government continued to jam Voice of America's and RFA's Tibetan- and Chinese-language services and the Oslo-based Voice of Tibet. Some Tibetans

reported that at times they were able to receive such broadcasts; however, research indicated that listenership was down because of the jamming.

The government severely restricted travel by foreign journalists to Tibetan areas of China. These restrictions remained in force during the year despite the January 1 implementation of new temporary regulations governing foreign media coverage of the 2008 Olympic Games. Under the new regulations, foreign journalists no longer need to obtain permission from local authorities before conducting interviews and investigations outside Beijing and Shanghai. In practice foreign journalists were not allowed to travel independently in the TAR.

Internet Freedom

During the year the PRC Ministry of Culture strongly tightened content restrictions for the largest Chinese language Tibet-related Web site, tibetcul.com. The ministry ordered the site to limit the content to tourism information, improve control over its blogs, and delete all sensitive articles. In July Chinese authorities permanently closed the Tibetan literary Web site The Lamp. The Internet blogs of well-known Tibetan poet and journalist Tsering Woesser, also known as Oser, remained closed. Most foreign Tibet-related Web sites critical of official policy in Tibet were blocked to users in China year round.

Academic and Cultural Freedom

Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions in an effort to prevent separatist political and religious activities on campus. The government controlled curricula, texts, and other course materials as well as the publication of historically or politically sensitive academic books (see Protection of Cultural Heritage).

Freedom of Religion

The law provides for freedom of religious belief, and the government's 2004 white paper "Regional Ethnic Autonomy in Tibet" states, "Tibetans fully enjoy the freedom of religious belief." However, the level of repression in Tibetan areas increased, especially in the TAR and the Ganzi TAP. The government maintained tight controls on religious practices and places of worship in Tibetan areas. Although authorities permitted many traditional practices and public manifestations of belief, they promptly and forcibly suppressed activities they viewed as vehicles for political dissent or advocacy of Tibetan independence.

The atmosphere for religious freedom varied from region to region. Although conditions were more relaxed in some Tibetan areas outside the TAR, repression increased in other Tibetan areas. For example, as part of a patriotic education campaign in the Ganzi TAP, home to 700,000 ethnic Tibetans, officials forced monks to sign statements denouncing the Dalai Lama and compelled many parents to withdraw their children from educational programs at monasteries or schools in India and place them in Chinese schools. The environment in the Aba Tibetan Autonomous Prefecture of northern Sichuan Province was less repressive.

The government especially repressed any religious activity perceived as venerating the Dalai Lama, whom the authorities and many ethnic Tibetans see as continuing a tradition of both political and religious leadership. In July the State Administration for Religious Affairs announced new regulations described by the official press as a "move to institutionalize the management of reincarnation." Under the new rules, which went into effect September 1 and codify the government's existing policy of seeking to influence the selection of Tibetan religious leaders, the Chinese government must approve all reincarnations of lamas. Outside observers and many Tibetans criticized the measures as an unwarranted interference in Tibetan religious affairs. Some experts viewed these regulations as an attempt to minimize the Dalai Lama's influence and strengthen government control over the process of selecting reincarnate lamas, including the selection of the next Dalai Lama.

The Panchen Lama is Tibetan Buddhism's second most prominent figure after the Dalai Lama. According to Tibetan religious tradition, the Dalai Lama and the Panchen Lama recognize each others' incarnations. The government continued to insist that Gyaltzen Norbu is the Panchen Lama's 11th reincarnation and to deny access to Gendun Choekyi Nyima. While the overwhelming majority of Tibetan Buddhists recognized Gendun Choeki Nyima as the Panchen Lama, Tibetan monks claimed that they were forced to sign statements pledging allegiance to Gyaltzen Norbu. The Chinese Communist Party (CCP) also urged its members to support the "official" Panchen Lama.

The government routinely asserted control over the process of finding and educating reincarnate lamas. In 2005 diplomatic officials met the seven-year-old child approved by the government as the seventh reincarnation of Reting Rinpoche. His appointment was reportedly disputed by many of the monks at Reting Monastery in 2000 because the Dalai Lama did not recognize the selection. The Reting Rinpoche's religious training was closely supervised by the government through the selection of his religious and lay tutors.

Diplomatic observers repeatedly have been denied access to Nenang Monastery to verify the well-being of Pawo Rinpoche, who was recognized by the Karmapa in 1994 and has lived under strict government supervision since that time.

Security was intensified in the TAR and in other Tibetan areas during the Dalai Lama's birthday, sensitive anniversaries, and festival days. In March the TibetInfoNet reported that CCP members and civil servants were instructed not to visit temples in Lhasa during the March session of the National People's Congress; persons who disobeyed would face expulsion and dismissal. In May government officials reportedly warned some parents of Lhasa school students that their children would face expulsion from school if they participated in religious activities during the holy month of Saga Dawa. The prohibition on celebrating the Dalai Lama's birthday on July 6 continued.

During the time the Dalai Lama was awarded the U.S. Congressional Gold Medal on October 17, Lhasa citizens were ordered not to carry out any religious or celebratory activities. Drepung Monastery was closed for up to a week, and no one was allowed to enter or exit. There were also reports that at least one other monastery was closed and that some Tibetans were temporarily detained after celebrations and prayers in Gansu Province. Public access to monasteries in Lhasa and some other Tibetan areas was restricted temporarily.

During the summer Chinese authorities reportedly circulated a petition for monks at Lithang Monastery in Sichuan Province to sign stating that they did not want the Dalai Lama to return to Tibet. There were reports that monks in other nearby monasteries were also required to sign such a petition.

A sixth round of discussions between envoys of the Dalai Lama and Chinese government officials was held June 29 to July 5 in Shanghai and Nanjing but ended with no apparent progress. During the year the Chinese government escalated its criticism of the Dalai Lama, partly in conjunction with the Dalai Lama's meetings with foreign leaders. When the Dalai Lama was awarded the U.S. Congressional Gold Medal in October, a Ministry of Foreign Affairs spokesman stated, "The words and deeds of the Dalai Lama in the past decade show he is a political refugee engaged in secessionist activities in the camouflage of religion."

TAR party secretary Zhang Qingli continued to criticize the Dalai Lama, accusing him of linking with "hostile forces" within and outside China to overthrow China's socialist system. TAR government chairman Qiangba Puncog stated that the "high degree of autonomy for Tibet" advocated by the Dalai Lama was contrary to the wishes of Tibetans and to the Chinese constitution.

In 2006-7 the government of the Golog TAP in Qinghai Province held "Meetings Condemning the Dalai Lama" in all 66 monasteries in the prefecture. However, many monasteries refused to participate in the meetings. In May Abbot Khenpo Tsanor of Dungkyab Monastery in Gande County of Golog Prefecture was forced to step down after he refused to hold these meetings at his monastery and to sign documents condemning the Dalai Lama.

Government officials maintained that possessing or displaying pictures of the Dalai Lama was legal. However, authorities appeared to view possession of such photos as evidence of separatist sentiment when detaining individuals on political charges. Pictures of the Dalai Lama were not openly displayed in most major monasteries and could not be purchased openly in the TAR. In December the *Ganzi Daily* reported that Ganzi TAP officials were collecting hundreds of photographs of the Dalai Lama

together with pledges from Tibetans "not to believe in him" anymore.

International observers saw pictures of a number of religious figures, including the Dalai Lama, displayed more widely in some Tibetan areas outside the TAR. The government continued to ban pictures of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama. Photos of the "official" Panchen Lama, Gyaltzen Norbu, were not widely displayed. However, photos of the previous Panchen Lama, his daughter, and the Karmapa (who fled to India in 1999) were widely sold and displayed.

On January 1, the "TAR Implementation of the PRC Religious Affairs Regulations" (TAR Implementing Regulations) came into force, superseding the TAR's 1991 regulations. The TAR Implementing Regulations of the 2005 PRC religious affairs regulations assert state control over all aspects of Tibetan Buddhism, including religious groups, venues, and personnel. According to Chinese media reports, the TAR Implementing Regulations would play an important role in resisting the "Dalai Clique's separatist activities."

The TAR Implementing Regulations and the parallel November 2006 revision of the Sichuan Province Religious Affairs Regulations more explicitly codify existing practice regulating the government's control over the movement of registered nuns and monks by requiring that they seek permission from county-level religious affairs officials to travel to another prefecture or county-level city within the TAR. In practice similar restrictions were sometimes applied even to monks visiting another monastery within the same county. The previous regulations required monks and nuns to seek travel permission only if they were visiting another province. According to the educational practices of Tibetan Buddhism, monks and nuns must travel to receive specialized training from teachers who are considered experts in their particular theological traditions. In December a Tibetan Buddhist monk told the *Ganzi Daily*, the official newspaper of the Ganzi Prefecture Communist Party Committee, that monks in Lithang, Ganzi TAP, needed permission to leave their monasteries and go into town.

The TAR Implementing Regulations also increase the government's control over the building and management of religious structures. According to Article 13 of the TAR Implementing Regulations, individuals and organizations must petition the government's Religious Affairs Department to build religious structures. The department may demolish a religious structure built without authorization. In mid-May the PAP demolished a nearly completed statue of Guru Padmasambava at Samye Monastery in Lhoka Prefecture in the TAR. The statue was being constructed with donations from Han Chinese Buddhists from Guangdong Province.

Chapter two, Articles 48 and 49, of the TAR Implementing Regulations forbid the carrying out of "monastic construction" and "reconstructing, extending, or repairing religious venues" without official permission. Structures that violate these provisions may be torn down by Chinese authorities. Government officials sometimes used regulations regarding religious structures to demolish the homes of individual monks and nuns. In the Ganzi TAP, where Sichuan Province authorities applied similar restrictions on religious structures, officials destroyed the homes of more than 60 monks and nuns in the first half of the year.

The TAR Implementing Regulations also grant the government control over large-scale religious gatherings. Chapter 2, Articles 27 and 28, require that monasteries request permission to hold large or important religious events. In October Pangsa Monastery was closed after a dramatic surge in the number of devotees visiting the reliquary statue.

The TAR had 1,750 registered religious venues. Government officials closely associated Buddhist monasteries with proindependence activism in Tibetan areas. Spiritual leaders encountered difficulty reestablishing historical monasteries due to lack of funds, general limitations on monastic education, and lack of authorization to build and operate religious institutions. Officials in some areas contended such religious institutions were a drain on local resources and a conduit for political infiltration by the Tibetan exile community.

The government stated there were no limits on the number of monks in major monasteries and that each monastery's Democratic Management Committee (DMC) decided independently how many monks the monastery could support. However, the government exercised strict control over most monasteries through the DMCs and imposed strict limits on the number of monks in major monasteries, particularly within the TAR. The government had the right to disapprove any individual's application to take up religious orders, and there were reports during the year of some young monks and monks critical of the government being forced out of monasteries.

Authorities limited the traditional practice of sending young boys to monasteries for religious training by means of regulations that forbade monasteries from accepting individuals under the age of 18. Nevertheless, many monasteries continued to admit younger boys, often delaying their formal registration as monks until age 18. According to the *Ganzi Daily*, hundreds of young monks in the Ganzi TAP were reportedly removed from monasteries and placed in regular schools as part of the patriotic education campaign.

Monks outside the TAR who want to study in the TAR are required to obtain official permission from the religious affairs bureaus (RABs) of their home province and the TAR RAB, but such permission was not readily granted. Sources reported that ethnic Han Chinese monks generally were not allowed to undertake religious study in the TAR.

The quality and availability of high-level religious teachers in the TAR and other Tibetan areas remained inadequate. Many teachers were in exile, older teachers were not being replaced, and those remaining in Tibetan areas outside the TAR had difficulty securing permission to teach in the TAR.

Although Tibetan monks were not allowed to conduct large-scale religious teachings outside Tibetan areas, many monks continued to give private teachings to audiences in non-Tibetan regions of China. According to reports, ethnic Han Chinese Buddhists outside Tibetan areas were sometimes discouraged from inviting Tibetan monks to give teachings. Such visits require explicit permission from both the TAR and the receiving province's RAB. Nevertheless, Tibetan monks sometimes traveled in plain clothes outside the TAR to teach.

Monasteries in the TAR were not allowed to establish relationships with other monasteries or hold joint religious activities.

The government continued to oversee the daily operations of major monasteries. The government, which did not contribute to the monasteries' operating funds, retained management control of monasteries through the DMCs and local RABs. Regulations restricted leadership of many DMCs to "patriotic and devoted" monks and nuns and specified that the government must approve all members of the committees. At some monasteries government officials also sat on the committees. DMCs at several large TAR monasteries diverted funds generated by the sale of entrance tickets or donated by pilgrims to purposes other than the support of monks engaged in full-time religious study. As a result, some "scholar monks" who had formerly been fully supported had to engage in income-generating activities. Some experts were concerned that, as a result, fewer monks would be qualified to serve as teachers.

Government officials claimed that the patriotic education campaign in the TAR, which often consisted of intensive, weeks-long sessions conducted by outside work teams, ended in 2000. However, monks and nuns continued to undergo political education on a regular basis. According to the *Ganzi Daily*, the Ganzi TAP government sent cadres to the TAR to learn the patriotic education campaign model and began applying it in the Ganzi TAP, home to 700,000 ethnic Tibetans.

In February officials from the Bureau of Ethnic and Religious Affairs told diplomatic observers that political education was carried out for all citizens, not just monks and nuns. Because the primary responsibility for conducting political education shifted from government officials to monastery leaders, the form, content, and frequency of training at each monastery appeared to vary widely. However, conducting such training remained a requirement and was a routine part of monastic management.

The deputy party secretary of the Sichuan Provincial Party Committee stated at an educational conference held in the Ganzi TAP in August that "the major targets of these patriotic educational activities must be Tibetan Buddhist monasteries and monks and nuns."

In November the Patriotic Education Leading Group of the Sichuan Provincial Party Committee held a conference on enhancing the patriotic educational campaign in the Ganzi TAP. It was reported that the prefecture carried out patriotic educational campaigns during the year at 95 prefecture-level government units, 18 counties, 850 schools, and 532 monasteries.

In the Ganzi TAP a patriotic education campaign focused on CCP members and monks, seeking to strengthen the loyalty of wavering party members, some of whom follow the Dalai Lama, under the slogan "The Party is key, and the focus is the monasteries."

During the year the TAR government tightened its control over Tibetan cultural relics. Under Article 3 of the July revision of the TAR Cultural Relics Protection Regulations, the TAR asserts ownership of religious institutions as cultural sites, and of cultural and religious relics. Article 3 also provides that monasteries may not lend relics to other monasteries without state permission.

According to PRC press reports, from 1949 to year's end, the Chinese government spent \$83 million (RMB 600 million) on the preservation of Tibetan historical and cultural relics. This included renovating and reopening more than 1,400 monasteries and repairing cultural relics, many damaged or destroyed before and during the Cultural Revolution. Nevertheless, many monasteries destroyed during the Cultural Revolution were not rebuilt or repaired, and others remained only partially repaired. Government funding of restoration efforts as cultural preservation also promoted the development of tourism in Tibetan areas. Most recent restoration efforts were funded privately, although a few religious sites also received government support for reconstruction projects during the year.

Approximately 615 Tibetan Buddhist religious figures held positions in local people's congresses and local Chinese people's political consultative conferences in the TAR. However, the government continued to insist that CCP members and senior employees adhere to the CCP's code of atheism, and routine political training for cadres continued to promote atheism. TAR officials confirmed that some RAB officers were CCP members and that religious belief was incompatible with CCP membership. However, some lower-level RAB officials practiced Buddhism.

Freedom of Movement

The law provides for the freedom to travel; however, in practice the government strictly regulated travel and freedom of movement of Tibetans, especially within the TAR. Many Tibetans, particularly those from rural areas, continued to report difficulties obtaining passports.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes. The government placed restrictions on the movement of Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were reports of arbitrary detention of persons, particularly monks, returning from Nepal. Detentions generally lasted for several months, although in most cases no formal charges were brought.

Border guards continued to use force to prevent unauthorized border crossings. On October 18, PAP border guards reportedly shot at 46 Tibetans attempting to enter Nepal at the Nangpa La pass. In September 2006 Chinese border forces at the Nangpa La pass shot at a group of approximately 70 Tibetans attempting to enter Nepal, killing one and injuring others. The group included monks, nuns, and children.

The Office of the UN High Commissioner for Refugees reported that during the year 2,156 Tibetans arrived at the Tibet Reception Center in Nepal, compared with 2,405 in 2006. During the year 2,156 Tibetans departed the reception center for India. Nevertheless, thousands of Tibetans, including monks and nuns, visited India via third countries, and some returned after temporary stays. The majority of Tibetans who transited via Nepal to India were young persons six to 30 years of age who migrated principally due to cultural suppression, including the lack of Tibetan-language educational facilities and opportunities for religious education.

The Karmapa, leader of Tibetan Buddhism's Karma Kagyu schools and one of the most influential religious figures in Tibetan Buddhism, remained in exile following his 1999 flight to India.

The government also regulated foreign travel to the TAR. In accordance with a 1989 regulation, foreign visitors were required to obtain an official confirmation letter issued by the government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies. While none of the TAR's 70 counties were officially closed to foreigners, access for foreigners to many areas of the TAR remained problematic.

Official visits to the TAR were supervised closely and afforded delegation members very few opportunities to meet local persons not previously approved by the authorities. Foreigners could travel freely in most Tibetan areas outside the TAR.

National Minorities

Although according to TAR census figures, Tibetans made up 92 percent of the population of the TAR's permanently registered population; however, official population figures did not include a large number of long-, medium-, and short-term Han residents, such as cadres, skilled workers, unskilled laborers, military and paramilitary troops, and their dependents. Chinese social scientists placed the total number of this floating population (including tourists and visitors on short-term business trips) for Lhasa alone at more than 200,000 (a figure that comprised half of Lhasa's overall population and more than 10 percent of the TAR's population) during the May to November high season for tourism and migrant workers. The size of this floating, mostly ethnic Han population rapidly increased over the past decade, especially since the opening of the Qinghai-Tibet railway in July 2006.

Migrants to the TAR were overwhelmingly concentrated in urban areas, where government economic policies disproportionately benefited Han migrants. Small businesses, mostly restaurants and retail shops, run by Han and Hui migrants predominated in cities throughout the Tibetan areas. Tibetans continued to make up nearly 98 percent of the rural population, according to official census figures.

Family planning policies permitted Tibetans and members of other minority groups to have more children than Han. Urban Tibetans, including Communist Party members, and some ethnic Han Chinese living in Tibetan areas were generally permitted to have two children. Rural Tibetans were encouraged, but not required, to limit births to three children.

Since 2000 the government has been implementing a resettlement campaign of Tibetan nomads into urban areas across the TAR and other Tibetan areas. Officially nomads are encouraged with monetary incentives to kill or sell their livestock and move to newly created Tibetan communities. However, reports existed of incidences of compulsory resettlement with compensation that was promised but either never materialized or was inadequate.

In January TAR Party Secretary Zhang Qingli stated that the restructuring of Tibetan farming and grazing communities was not only to promote economic development but also to counteract the Dalai Lama's influence. He also stated that to do so was essential for "continuing to carry out major development of west China." In 2006 a total of 25,000 TAR nomad and farming households were resettled, and another 52,000 were planned for 2008. Improving housing conditions and education for Tibet's poorest were among the goals of resettlement, yet a requirement that villagers build houses according to strict official specifications within two or three years often forced resettled families into debt to cover construction costs.

During the year state media reported that Tibetans and other minority ethnic groups made up 60 percent of all government employees in the TAR. However, Han Chinese continued to hold the top CCP positions in nearly all counties and prefectures, including party secretary of the TAR. Tibetans holding government positions were prohibited from worshipping at monasteries or practicing their religion.

Some Tibetans reported that they experienced discrimination in employment and claimed that Han Chinese were hired preferentially for many jobs and received greater pay for the same work. Some Tibetans reported that it was more difficult for Tibetans than Han to get permits and loans to open businesses. The use of the Chinese language was widespread in urban areas, and many businesses limited employment opportunities for Tibetans who did not speak Chinese.

The TAR tourism bureau continued its policy of refusing to hire Tibetan tour guides educated in India or Nepal. Government officials stated that all tour guides working in

the TAR were required to seek employment with the Tourism Bureau and pass a licensing exam on tourism and political ideology. The government's stated intent was to ensure that all tour guides provide visitors with the government's position opposing Tibetan independence and the activities of the Dalai Lama. Some ethnic Tibetan tour guides in the TAR complained of unfair competition from government-sponsored "Help Tibet" tour guides brought in from outside the TAR and put to work after receiving a crash course on Tibet.

Women and Children

There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. However, women were underrepresented at the provincial and prefectural levels of government. According to an official Web site, female cadres in the TAR accounted for more than 30 percent of the TAR's total cadres.

There was no information on the incidence of rape or domestic violence.

Prostitution was a growing problem in Tibetan areas, and hundreds of brothels operated semiopenly in Lhasa. International development workers in the TAR reported there was no reliable data on the number of persons engaged in commercial sex acts in Lhasa and Shigatse, the TAR's two largest cities, although some estimates placed the number of such persons as high as 10,000. Some of the prostitution occurred at sites owned by the CCP, the government, and the military. Most prostitutes in the TAR were Han women, mainly from Sichuan. However, some Tibetans, mainly young girls from rural or nomadic areas, also engaged in prostitution. The incidence of HIV/AIDS among prostitutes in Tibetan areas was unknown, but lack of knowledge about HIV transmission and economic pressures on prostitutes to engage in unprotected sex made them particularly vulnerable.

The TAR is one of the few areas of China that does not have a skewed sex ratio resulting from sex-selective abortion and inadequate health care for female infants.

Primary school education was compulsory, free, and universal, according to official statements. According to official TAR statistics, 96.5 percent of children between the ages of six and 13 were in school, and 90 percent of the TAR's 520,000 primary school students completed lower middle school, for a total of nine years of education. In 2003 the UN special rapporteur on the right to education in China reported that education statistics did not accurately reflect attendance and were not independently verified. Miscellaneous fees for the TAR's 131,000 middle school students were abolished in mid-year.

Both Tibetan and Chinese are official languages in the TAR, and both languages were used on public and commercial signs. However, Chinese was spoken widely and was used for most commercial and official communications. The use of both languages was also affected by the rate of illiteracy among Tibetans, which reportedly was more than five times higher (47.6 percent) than the national average (9.1 percent), according to 2000 census data. The TAR's overall rate of illiteracy (47.3 percent) was the highest in the country and was nearly twice as high as in the second-ranked Qinghai Province (25.2 percent). In many rural and nomadic areas, children received only one to three years of Tibetan language education before continuing their education in a Chinese-language school. The illiteracy rate of youth and adults fell from 95 percent before 1959 to 15 percent at the end of 2005. However, the illiteracy rate for this group was much higher than 15 percent in some areas. According to a 2006 report by the Xinhua News Agency, a looser definition of literacy was used for Tibetan speakers than for Chinese speakers in rural Tibet. Tibetan-speaking peasants and nomads were considered literate if they could read and write the 30 letters of the Tibetan syllabary. Chinese-speaking nomads and herders were considered literate if they could recognize 1,500 Chinese characters.

Protection of Cultural Heritage

Rapid economic growth, the expanding tourism industry, the resettlement of nomads, and the introduction of more modern cultural influences have disrupted traditional living patterns and customs and threatened traditional Tibetan cultural. Residents lacked the right to play a role in protecting their cultural heritage.

The Dalai Lama, Tibetan experts, and other observers expressed concern that development projects and other central government policies disproportionately benefited non-Tibetans and continued to promote a considerable influx of Han Chinese, Hui, and other ethnic groups into the TAR. The opening of the Qinghai-TAR railroad in 2006 increased migration of non-Tibetans into the TAR. The government reported the railroad carried 1.5 million passengers during the year, with approximately half of those passengers being nontourists.

Residents lacked the right to play a role in protecting their cultural heritage. The TAR government asserted ownership over religious relics and monasteries. Although in recent years the government made efforts to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continued to limit the fundamental freedoms of Tibetans and risked undermining Tibet's unique cultural, religious, and linguistic heritage.

In May local Tibetans from Daocheng County of the Ganzi TAP clashed with authorities over the development of Yading, an important Buddhist religious mountain area.

In June a similar conflict occurred between Tibetans from Bamei Town in the Ganzi TAP and mining developers in the sacred Yala Mountain area. Local citizens destroyed vehicles of party and government officials and the mine owner. Chinese authorities reportedly detained 10 village elders who tried to petition provincial and central level officials about the exploitation of the holy mountain. The petitioners reportedly were badly beaten.

The government established a comprehensive national Tibetan-language curriculum, and many elementary schools in Tibetan areas used Tibetan as the primary language of instruction. Tibetan students also were required to study Chinese, and Chinese was generally used to teach certain subjects, such as arithmetic and science. In middle and high schools--even some officially designated as Tibetan schools--teachers often used Tibetan only to teach classes in Tibetan language, literature, and culture and taught all other classes in Chinese.

As a practical matter, proficiency in Chinese was essential to receive a higher education. China's most prestigious universities provided instruction only in Chinese, while the lower-ranked universities established to serve ethnic minorities allowed study of only some subjects in Tibetan. Apart from some universities specifically for ethnic minorities, Chinese universities generally required English language proficiency for entrance. Most graduates of Tibetan schools, however, learned only Chinese and Tibetan and were thus unable to attend the better universities. One consequence was a shortage of Tibetans trained in science and engineering and a near total reliance on imported technical specialists from outside the TAR to work on development projects inside the TAR.

Opportunities to study at Tibetan-language schools were greater in the TAR, while opportunities to study at privately funded Tibetan-language schools and to receive a traditional Tibetan-language religious education were greater in Tibetan areas outside the TAR.

HONG KONG

Hong Kong, with a population of approximately seven million, is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's constitution, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (the Basic Law), specify that Hong Kong will enjoy a high degree of autonomy except in matters of defense and foreign affairs. In March the Election Committee reelected Donald Tsang to chief executive. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, although core issues remained. Residents were limited in their ability to change their government. However, in December the PRC's National People's Congress Standing Committee announced a possible timeline for Hong Kong's transition to election by universal suffrage of its Chief Executive and Legislative Council beginning in 2017. Democratic activists protested the decision and called for universal suffrage in 2012. In 2004 the NPC Standing Committee issued a self-initiated interpretation of the Basic Law and rejected universal suffrage for the 2007 Chief Executive and 2008 Legislative Council

elections. The legislature was restricted in its power to affect government policies. Claims of press self-censorship persisted, violence against women remained a problem, and workers were not guaranteed the right to bargain collectively.

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 Basic Law prohibits torture and other forms of abuse, and the government generally observed the prohibition in practice. From January to July, there were 304 allegations of assault by police officers on persons; however, none alleged torture or were substantiated by the Complaints Against Police Office (CAPO).

In August 2006 an asylum seeker from Sri Lanka lodged a complaint with CAPO that he was assaulted by police while being pushed into a police car after being apprehended for overstaying. CAPO determined that there was insufficient evidence to substantiate the allegation, and in April the Independent Police Complaints Council classified the case as "unsubstantiated."

Prison and Detention Center Conditions

Prison conditions generally met international standards, and the government permitted visits by independent human rights observers; however, there were no requests during the year. Media visits were permitted, and local justices of the peace regularly conducted unannounced prison inspections. For the first six months of the year, the average prison occupancy rate for the 24 prisons was 99 percent. Overcrowding occurred in some prisons, particularly in maximum-security prisons, which operated at an average occupancy rate of 115 percent.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest or detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the police, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest and Detention

Suspects were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. Suspects must be charged within 48 hours or released, and the government respected this right in practice. There is a functioning bail system, and detainees are allowed prompt access to a lawyer and family members. The law provides accused persons with the right to a prompt judicial determination. During the year the average length of preconviction incarceration was 56 days.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice. The judiciary, underpinned by the Basic Law's provision that the common law tradition be maintained, provided citizens with a fair and efficient judicial process. The courts may interpret those provisions of the Basic Law that address matters within the limits of the SAR's autonomy. The courts also interpret provisions of the Basic Law that touch on mainland government responsibilities or on the relationship between the central authorities and the SAR. However, before making final judgments on these matters, which are not subject to appeal, the courts must seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress (NPCSC). The Basic Law requires that courts follow the NPCSC interpretation of Basic Law provisions, although judgments previously rendered are not affected. As the final interpreter of the Basic Law, the NPCSC also has the power to self-initiate interpretations of the Basic Law.

The NPCSC's mechanism for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The chief executive, the president of the Legislative Council (LegCo), and the chief justice nominate the Hong Kong members. Human rights and lawyers' organizations expressed concern that this process, which circumvents the Court of Final Appeal's power of final adjudication, could be used to limit the independence of the judiciary or could degrade the courts' authority.

Trial Procedures

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. Trials are by jury except at the magistrate court level. An attorney is provided at the public's expense if defendants cannot afford counsel. Defendants can confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

Defendants generally enjoy a presumption of innocence. However, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that commensurate with his official income or controls monies or property disproportionate to his official income is guilty of an offense unless he can satisfactorily explain the discrepancy. In practice the courts upheld this ordinance. Court is conducted in either Cantonese or English, the SAR's two official languages.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters, and there were no problems enforcing domestic court orders.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice.

The Office of the Privacy Commissioner for Personal Data works to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner. Certain exemptions allow authorities to transfer personal data to a PRC body for safeguarding the security, defense, or international relations of Hong Kong, and for the prevention, detection, or prosecution of a crime.

The use of covert surveillance and the interception of telecommunications and postal communications can be granted only to prevent or detect "serious crime" or protect "public security." An August 2006 law established a two-tiered system for granting approval for surveillance activities, under which surveillance of a more intrusive nature requires the approval of a judge and surveillance of a less intrusive nature requires the approval of a senior law enforcement official. Applications to intercept telecommunications must involve crimes with a penalty of at least seven years' imprisonment, while applications for covert surveillance must involve crimes with a penalty of at least three years' imprisonment or a fine of at least \$128,000 (HK\$1 million).

On October 31, the commissioner on interception of communications and surveillance, Justice Woo Kwok-hing, reported his findings into the allegations of unlawful surveillance activities. Woo reported that in the first five months after the law took effect, four episodes of misconduct had occurred but all were inadvertent. He also reported that a total of 526 authorizations were issued, leading to 177 arrests, and that the three judges authorized to approve applications refused 67 requests. No applications were sought in relation to matters of legal privilege or journalistic materials.

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 past years, there were no reports of violence or other actions taken against *The Epoch Times* newspaper. Reports of media self-censorship continued during the year. Most media outlets were owned by businesses with interests on the mainland, which led to claims that they were vulnerable to self-censorship. In January the Hong Kong University Public Opinion Program reported that close to half of respondents--a 10-year high--believed that news media practiced self-censorship. According to the survey, 29.5 percent of respondents within the industry said they practiced self-censorship.

The publishing or importation of print or other media are subject to regulation by a few provisions to safeguard the interest of readers, as in the case of obscene print materials and other media not regulated by the Broadcasting Ordinance. The case that Gillian Chung filed in August 2006 seeking an injunction against further publication of peephole-style photos and an order for the Hong Kong weekly *Easy Finder* magazine to surrender all existing copies of the photos was deferred until June 2008.

Controversy continued over the independence of government-owned and -operated Radio Television Hong Kong (RTHK). A government-appointed review panel recommended that a new public service broadcaster be established, but the panel did not comment on the future of RTHK. However, several media groups criticized the findings, noting that RTHK was already widely accepted as an independent public broadcaster. Particular criticism was leveled at the composition of the panel, none of whom were public broadcasting experts. The panel's findings were widely interpreted as a threat to media freedom. At year's end the fate of RTHK had not been decided.

International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards. The independent media were active and expressed a wide variety of views without restriction.

Internet Freedom

There were no government restrictions on access to the Internet or reports that government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were generally no restrictions on academic freedom and cultural events. In February the chief executive appointed a two-person commission of inquiry to investigate allegations of political interference in academic freedom at the Hong Kong Institute of Education (HKIED).

In June the commission ruled that Fanny Law, the former permanent secretary for education and manpower and current anticorruption commissioner, improperly interfered with the academic freedom of HKIED academics in two of four alleged cases. Law resigned soon after the release of the inquiry. The inquiry also concluded that then-secretary for education and manpower Arthur Li Kwok-cheung had not infringed on institutional autonomy by forcing the institute to merge with Chinese University. Although Li was cleared of wrongdoing, he was replaced when the chief executive appointed the new cabinet on July 1.

There were allegations that the education system was vulnerable to government intervention. Problems identified by students and staff included the Education and Manpower Bureau's alleged control over the recently established University Grants Committee, the ruling councils of universities, and a funding mechanism, which resulted in the discouragement of academic research into local issues.

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. The government routinely issued the required permits for public meetings and demonstrations.

Falun Gong practitioners regularly conducted public protests against the crackdown on fellow practitioners in the mainland.

c. Freedom of Religion

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

Societal Abuses and Discrimination

No major societal abuses or acts of religious discrimination were reported during the year. Hong Kong's small Jewish community has excellent relations with the rest of society, and there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the *2007 International Religious Freedom Report*.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides residents freedom of movement, freedom of emigration, and freedom to enter and leave the territory, and the government generally respected these rights in practice, with some prominent exceptions. Most residents easily obtained travel documents from the SAR government; however, limits on travel to the mainland were sometimes imposed by the mainland government on outspoken political figures.

Government policy was to repatriate undocumented migrants who arrive from the mainland, and authorities were not able to consider them for refugee status under the "one country, two systems" framework. During the first half of the year, 1,619 migrants were repatriated to the mainland. The government does not recognize the Taiwan passport as valid for visa endorsement purposes.

The law does not provide for, and the government did not use, forced exile.

In July local and western media sources reported that between 150 and 1,000 Falun Gong adherents, most of them reportedly from Taiwan, were refused admission to Hong Kong immediately before PRC President Hu Jintao joined the observances marking the 10th anniversary of Hong Kong's retrocession to the PRC. The Hong Kong Association of Falun Dafa requested a review by the High Court, but at year's end the findings of the review had not been released.

PRC authorities do not permit some Hong Kong human rights activists and prodemocracy legislators to visit the mainland.

Protection of Refugees

The 1951 UN Convention relating to the Status of Refugees and its 1967 protocol do not extend to Hong Kong, and the SAR has no temporary protection policy. The director of immigration has discretion to grant refugee status or asylum on an ad hoc basis, but only in cases of exceptional humanitarian or compassionate need. The Immigration Ordinance does not provide foreigners the right to have asylum claims recognized. The government's practice was to refer refugee and asylum claimants to a lawyer or the Office of the UN High Commissioner for Refugees (UNHCR). In May 2006 the UNHCR stopped providing financial support to individuals awaiting status assessment due to budget cuts. In response the government began offering limited allowances to adult claimants through its social welfare department. As of September 30, approximately 900 persons were receiving assistance-in-kind, based on the needs assessed by professional workers, under the government support program. The UNHCR worked with potential host country representatives to resettle those persons designated as refugees.

In a High Court case filed in December, six refugees challenged the government's refusal to set a mechanism for assessment of refugee claims. The refugees alleged this constituted a breach of the city's obligations under the principle of nonrefoulement. The groups's lawyer argued that the principle had gained the status of customary international law and as such had been incorporated into Hong Kong's laws; the government countered that many other Asian countries were not signatories to the UN's refugee convention, which proved the principle had not gained the status of customary international law. The justice hearing the case postponed his decision to a later date, and at year's end no decision had been made.

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

The right of residents to change their government peacefully is limited by the Basic Law, which provides for the selection of the chief executive by an 800-person election committee (composed of individuals who are directly elected, indirectly elected, and appointed). The Basic Law provides for the direct election of only 30 of the 60 LegCo members and the inclusion of appointed members to the elected district councils. The approval of the chief executive, two-thirds of the legislature, and two-thirds of Hong Kong's delegates to the mainland's National People's Congress (NPC) is required to place an amendment of the Basic Law on the agenda of the NPC, which has the sole power to amend the Basic Law.

The law provides for eventual universal suffrage in both chief executive and LegCo elections; however, in 2004 the NPCSC rejected universal suffrage in Hong Kong for the 2007 and 2008 elections. The NPCSC also determined that the current 50-50 ratio for directly elected geographic seats and indirectly elected functional constituency seats in LegCo must remain indefinitely in place. On December 29, the PRC's NPCSC officially provided a possible timeline for Hong Kong's transition to election by universal suffrage of its chief executive in 2017 and the LegCo in 2020.

Elections and Political Participation

On March 25, the Chief Executive Election Committee selected incumbent Donald Tsang by a wide margin over pan-democratic challenger Alan Leong to serve a five-year term as chief executive. In April Donald Tsang was appointed as chief executive, and the mainland government approved his new cabinet in June.

On July 11, the secretary for constitutional and mainland affairs unveiled the details of the government's green paper on constitutional reform, thereby launching a three-month consultation period during which the government hoped to build consensus on the timeframe and roadmap for the implementation of universal suffrage for future chief executive and LegCo elections. The proposal offered the public numerous options on structural reforms related to each election, but some lawmakers and the press criticized the proposal as too complicated, particularly given the relatively short consultation period. They chastised the government for not providing a reasonable number of mainstream and coherent options.

On November 18, a record 900 candidates contested 405 district council seats. The pro-Beijing Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) nearly doubled its number of seats to 115, while the Democratic Party won 59 seats (down from 95 in the 2003 election), the probusiness Liberal Party won 14, the prodemocracy Civic Party--contesting its first district council election--won nine, and various smaller parties and independents took the remainder. More than 1.1 million persons voted, for a participation rate of 38.8 percent, significantly lower than the 44 percent turnout in 2003. The Electoral Affairs Commission received approximately 2,000 complaints of irregularities; most concerned either improper advertisements or canvassing in prohibited areas near polling stations.

On December 2, former Hong Kong government chief secretary and pandemocratic leader Anson Chan won a by-election held to fill the Hong Kong Island LegCo seat left vacant by the death of DAB chairman Ma Lik in August. Chan earned just under 55 percent of the vote, while her main challenger, former secretary for security Regina Ip, received almost 43 percent. The turnout rate, 52 percent, compared favorably to the most recent LegCo by-election in 2000 (33 percent) and also to the 2004 LegCo general election (55.6 percent). The Electoral Affairs Commission stated that the election was conducted successfully and that a report would be submitted to the chief executive within three months following the election.

As of December 7, the Independent Commission Against Corruption (ICAC) received 813 election-related complaints. Among them, 487 were related to the district council elections on November 18 and six concerned the LegCo by-election on December 2. Another six were related to the chief executive election in March.

Polls conducted by the University of Hong Kong consistently found that over half of the respondents favored electing the chief executive and the entire legislature by universal suffrage in 2012. However, the mainland government and pro-Beijing political figures and pundits in the HKSAR consistently maintained that 2017 would be the earliest appropriate date for universal suffrage in either election.

On December 12, the government submitted a report on the outcome of the public consultation on the green paper on Constitutional Development to the NPCSC. Chief Executive Tsang issued a public statement about his report to the NPCSC and stated that he urged the NPCSC "to allow us to amend the methods for selecting the Chief Executive and for forming the Legislative Council in 2012." Following his statement, the chief secretary made a statement in LegCo outlining the key conclusions and recommendations made in the report to the NPCSC: (1) the community generally hoped that the universal suffrage timetable could be determined early, so as to set the course for Hong Kong's constitutional development; (2) implementing universal suffrage for the chief executive first in 2012 was the expectation of more than half of the public, as reflected in the opinion polls; this expectation should be taken seriously and given consideration; (3) implementing universal suffrage for the chief executive first

by no later than 2017 would stand a better chance of being accepted by the majority in the community; (4) community consensus has begun to emerge on taking steps toward universal suffrage for the chief executive first, followed by that for LegCo; and (5) diverse views remained on the models for forming LegCo by universal suffrage and how the functional constituencies should be dealt with, but setting the timetable for implementing universal suffrage for the chief executive and LegCo could help promote the ultimate resolution of the issues involved. The chief secretary went on to state that if the NPCSC confirmed that the methods for selecting the chief executive and for forming LegCo in 2012 may be amended, the government would study how these two electoral methods could do so, and the community would have a further opportunity to discuss these issues.

On December 29, the NPCSC stated appropriate amendments may be made to the specific method for selecting the chief executive and the LegCo in 2012. The decision ruled out the possibility of universal suffrage for the chief executive and LegCo in 2012 but explicitly noted that the election of the chief executive in the year 2017 may be implemented by universal suffrage. After the chief executive is selected by universal suffrage, the LegCo may be elected by universal suffrage. Any amendments to the Hong Kong Basic Law regarding election of the chief executive and LegCo must obtain consent (the chief executive), approval by two-thirds of the LegCo, and then be submitted for approval (chief executive) or for the record (LegCo) to the NPCSC. If the methods for selecting the chief executive and electing the LegCo are not amended, then the existing methods shall continue to apply. The citizens and government of Hong Kong now must devise an electoral process that will lead to universal suffrage and democratic elections in 2017 and 2020.

The Basic Law substantially limits the ability of the legislature to influence policy by requiring separate majorities among members elected from geographical and functional constituencies to pass a bill introduced by an individual member. Another Basic Law provision prohibits LegCo from putting forward bills that affect public expenditure, political structure, or government policy. Bills that affect government policy cannot be introduced without the chief executive's written consent. The government has adopted a very broad definition of "government policy" to block private member bills, and the president of LegCo has upheld the government's position.

In January the Court of First Instance found that the Rules of Procedure cited by LegCo President Rita Fan were consistent with the Basic Law. This concluded the August 2006 judicial review launched by legislator Leung Kwok-hung challenging Fan's refusal to table many private member amendments during debate over the Interception of Communications and Surveillance bill. Leung said he would consider filing an appeal, although at year's end he had not done so.

District councils are responsible for advising the government on matters affecting the well-being of district residents, the provision and use of public facilities, and the use of public funds allocated for local public works and community activities. The District Council Ordinance gives the chief executive authority to appoint 102 of 529 of the district councilors, and he exercised this power in practice.

Hong Kong sends 36 delegates to the NPC. In March local papers reported on proposed curbs to the electoral process under consideration by the fifth annual session of the 10th NPC. According to deputies attending the ongoing plenary sessions of the NPC and the Chinese People's Political Consultative Conference in Beijing, Hong Kong deputies elected to the NPC will be disqualified if they are found to be members of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China or the Falun Gong.

Women held 11 of the 60 LegCo seats and made up between 17 and 23 percent of membership in the major political parties. The president of the LegCo was a woman, as were the heads of several government departments. More than one-third of civil servants were women, and four of the 22 most senior government officials were women.

There were no ethnic minorities in the LegCo, but there were a number of ethnic minorities in senior civil service positions.

Government Corruption and Transparency

There were only isolated reports of government corruption, and the government sought to combat official corruption through the Prevention of Bribery Ordinance and the Independent Commission Against Corruption (ICAC).

On December 11, the ICAC reported that it received 3,278 corruption reports in the first 11 months of the year, representing a 6 percent increase from the same period of 2006. The number of corruption reports against government departments had fallen by 10 percent from 984 to 885. However, the reports against the private sector had increased by 15 percent, from 1,886 to 2,169. The ICAC Advisory Committee on Corruption chairman reportedly stated the antigraft body needed to upgrade its investigation skills to deal with technological advancements, which facilitate cross-boundary financial transactions.

The law provides for access to government information with exceptions that are narrowly defined and could be appealed, and in practice such information was provided to both citizens and non-citizens.

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 generally cooperative and responsive to their views. Prominent human rights activists critical of the mainland government also operated freely and maintained permanent resident status in Hong Kong.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law provides that all residents are equal, and the government enforced these rights in practice.

Women

Violence against women continued to be a problem, although the government took measures against it. There were 58 cases of rape reported to the police during the first half of the year, of which 38 were prosecuted, resulting in 14 convictions. The Statute Law (Miscellaneous Provisions) Bill criminalizes marital rape, and the Crimes Ordinance expressly states that "unlawful sexual intercourse" could be applied both outside and inside the bounds of marriage. During the first half of the year, 669 sexual assault cases were reported to the police.

Local public health officials, politicians, and women's groups remained concerned about violence against women, particularly among new immigrants from the mainland. The Domestic Violence Ordinance allows victims to seek a three-month injunction, extendable to six months, against an abuser. The ordinance does not criminalize domestic violence directly, although abusers may be liable for criminal charges under other ordinances including the Crime Ordinance and the Offences Against the Person Ordinance. The government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders. Between January and March, there were 1,119 cases of domestic violence reported to the Social Welfare Department, which receives reports from the police, social workers, the Health Department, and volunteer organizations.

In January Director for Social Welfare Paul Tang remarked that the government was committed to combating domestic violence, but he noted that the number of domestic violence cases had increased to 3,412 in the first nine months of 2006, up 37 percent over the same period in 2005. Tang said the increase was expected as the awareness of the public, frontline staff, and the victims was enhanced as a result of the improvements in public education, publicity, and training by the government. Tang also said the government had added two teams of social workers to increase counselling services. The Social Welfare Department reported that it had increased capacity and enhanced support to the Refuge Centres for Women during the year.

The government introduced a pilot project in January 2006 called the Batterer Intervention Programme, which provides intervention and counselling to batterers. As of

June, 212 batterers had participated in 27 counselling groups. The number of Integrated Family Service Centres and Family and Child Protective Services Units, which offer services to domestic violence victims and batterers, increased from six to eight in 2006. The government also continued its publicity campaign on Strengthening Families and Combating Violence and increased public education on the prevention of domestic violence.

On October 14, a 36-year-old mother threw her two children, a girl age 12 and a boy age nine, with their hands and feet bound, out of a window and to their death; the woman, whose husband was in a mental hospital, then jumped to her own death. The tragedy prompted legislators to pass a motion on November 7 that urged the government to inject more resources into Tin Shui Wai, a low-income neighborhood, in view of the high number of family tragedies there.

Prostitution is legal, but there are laws against activities such as public solicitation, causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment.

The Sex Discrimination Ordinance prohibits sexual harassment of women seeking employment or already working in an organization. During the first seven months of the year, the Equal Opportunity Commission (EOC) reported 54 sexual harassment complaints.

The percentage of women employed in professional fields including sciences and engineering, law, teaching, accounting, social sciences, health and medicine, increased. As of June, 41 percent of professionals employed in these fields were women, versus 37 percent in June 2006. Approximately 22 percent of judicial officers and judges were women.

While the law treats men and women equally in terms of property rights in divorce settlements and inheritance matters, in practice women faced discrimination in employment, salary, welfare, inheritance, and promotion. Women reportedly formed the majority of the working poor and those who fall outside the protection of current labor law.

Children

The government supported children's rights and welfare through well-funded systems of public education, medical care, and protective services. The Education Department provided free and compulsory schooling for children between six and 15 years of age and placement services for non-Chinese speaking children. Nearly all school-age children attended school, and boys and girls attended in equal proportions. The government supported programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families.

The government provided subsidized, quality medical care for all children under 18 years of age who were residents. The Domestic Violence Ordinance mandates substantial legal penalties for acts of child abuse such as battery, assault, neglect, abandonment, sexual exploitation, and child sex tourism, and the government enforced the law.

During the first half of the year, there were 746 child abuse cases reported to the police: 326 involved physical abuses (referring to victims less than 14 years of age), and 420 involved sexual abuses (referring to victims less than 17 years of age).

The government provided parent education programs in all 50 of the Department of Health's maternal and child health centers, which included instruction on child abuse prevention. It also provided public education programs to raise awareness of child abuse and to alert children about how to protect themselves. The Social Welfare Department provided child psychologists for its clinical psychology units and social workers for its family and child protective services units. The police maintained a child abuse investigation unit and a child witness support program. A child care center law helped prevent unsuitable persons from providing childcare services.

There were no reports of child prostitution under the age of 16, which is the legal age of consent.

Trafficking in Persons

There is no law prohibiting trafficking in persons. There are various laws and ordinances that allow law enforcement authorities to take action against traffickers. Despite robust efforts by the SAR government to stop such activities, Hong Kong was a point of transit and destination for a small number of persons trafficked for sexual exploitation from the mainland and Southeast Asia. The SAR government stated that it was difficult to identify trafficking victims from among the larger group of illegal immigrants.

Nearly all trafficking victims initially came to Hong Kong willingly to engage in prostitution. Most came from rural areas of the mainland, Thailand, or the Philippines on 14-day tourist visas, although a very small number entered using forged documents. The overwhelming majority were women, although an increasing number of young men were coming to Hong Kong to work as homosexual prostitutes. While many came on their own, some were lured by criminal syndicates and promises of financial rewards but faced circumstances of debt bondage. Syndicates sometimes held passports and travel documents until debts were paid.

On December 3, two Filipino women were charged in a Hong Kong district court with two counts of trafficking in persons and aiding and abetting the breach of condition of stay after they allegedly brought six Filipino women to Hong Kong in July 2006 who ended up working as prostitutes in the city's "red light" district in Wan Chai. The case was heard in a district court on December 13 and 14; both of the accused were convicted as charged and sentenced to a total of three years' imprisonment on December 20. The victims returned to the Philippines.

Provisions in the Immigration Ordinance, the Crimes Ordinance, the Employment Ordinance, and other relevant laws enabled law enforcement authorities to take action against trafficking in persons. The Security Bureau, which also combats migrant trafficking and oversees the police, customs, and immigration departments, enforces antitrafficking laws. The courts can impose heavy fines and prison sentences of up to 14 years for activities such as arranging passage of unauthorized entrants, arranging entrance or exit of a person for the purpose of prostitution, and aiding and abetting any person to use forged, false, or unlawfully obtained travel documents. Law enforcement officials received special training on handling and protecting victims and vulnerable witnesses, including victims of trafficking.

There were no reports that government officials participated in, facilitated, or condoned trafficking, and no officials were prosecuted, convicted, or sentenced to time in prison or were removed from their duties for trafficking during the year.

The government provided legal aid to those taking legal action against an employer, and immunity from prosecution for those assisting in the investigation and prosecution of traffickers. The Social Welfare Department and local NGOs also provided an array of social services to victims of trafficking. The government also tried to prevent trafficking by distributing pamphlets and other public messaging campaigns, in a wide range of languages, on workers rights.

Persons with Disabilities

Discrimination against persons with physical and mental disabilities persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance calls for improved building access and sanctions against those who discriminate. Despite inspections and the occasional closure of noncompliant businesses under the Buildings Ordinance, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities.

The government offered an integrated work program in sheltered workshops and provided vocational assessment and training. While no comprehensive statistics are available on the number of persons with disabilities in the work force, a consortium of organizations representing persons with disabilities reported in 2002 that an

estimated 700,000 residents were disabled, approximately half of whom were able to work. As of March there were 3,263 persons with disabilities employed as civil servants out of a total civil service work force of 155,000. During the first half of the year, the Labor Department's Selective Placement Division found jobs for 1,634 of 2,326 disabled job seekers. As of September 2006, 1.34 percent of 784,000 primary and secondary school students were disabled; approximately 38 percent studied at mainstream schools.

The EOC sponsored a variety of activities to address discrimination against persons with disabilities, including youth education programs, distributing guidelines and resources for employers, carrying out media campaigns, and cosponsoring seminars and research.

Other Societal Abuses and Discrimination

There were no reports of societal violence or discrimination based on sexual orientation or against persons with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must register under the Trade Unions Ordinance and must have a minimum membership of seven persons for registration. There is no provision guaranteeing reinstatement of workers dismissed because of their trade union membership. According to an International Trade Union Confederation (ITUC) survey, almost 25 percent of Hong Kong's labor force is unionized.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize, and this right was implemented in practice; however, it does not guarantee the right to collective bargaining. The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance does not provide a legal framework for trade unions to engage employers in collective bargaining. The ordinance bans the use of union funds for political purposes, requires the chief executive's approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees. In all but a few specific trades, unions were not powerful enough to force management to engage in collective bargaining. The government did not engage in collective bargaining with civil servants' unions, and according to the ITUC report, only 1 percent of the workforce was covered by collective agreements, and even these were not legally binding.

The workplace consultation promotion unit in the Labor Department facilitated communication, consultation, and voluntary negotiation between employers and employees. Tripartite committees for each of the nine sectors of the economy included representatives from some trade unions, employers, and the Labor Department.

Work stoppages and strikes are legal. There are some restrictions on this right for civil servants. Although there is no legislative prohibition of strikes, in practice most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal. In addition, there is no legal entitlement to reinstatement in the case of unfair dismissal.

Approximately 1,000 local metal workers at construction sites went on strike in August, demanding higher pay and an eight-hour working day. On August 11, several hundred workers staged an unauthorized demonstration, scuffling with police and snarling traffic in the SAR's central district. The government released a statement expressing its concerns about the workers' action, although some newspapers reported concerns that the government was taking a hands-off approach to the matter. One government spokesman stated that labor officials had been trying their best to mediate the dispute and urged both sides to display mutual understanding to narrow their differences. On September 12, the metal workers called off the 36-day strike, the longest in Hong Kong in decades, after they agreed to an agreement that gave the workers a 14-percent pay raise for an eight-hour day.

There are no export processing zones in the SAR.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. Although the law does not specifically prohibit forced or compulsory labor by children, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The Employment of Children Regulations prohibits employment of children under the age of 15 in any industrial establishment. Children 13 and 14 years of age may work in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum nine years of education and protection of their safety, health, and welfare. The Labor Department conducted regular workplace inspections to enforce compliance with the regulations. During the first half of the year, the Labor Department conducted 74,451 inspections and discovered five suspected violations of the Employment of Children Regulations. The regulations limit work hours in the manufacturing sector for persons 15 to 17 years of age to eight hours per day and 48 hours per week between 7 a.m. and 7 p.m. They also prohibit overtime in industrial establishments with employment in dangerous trades for persons less than 18 years of age.

e. Acceptable Conditions of Work

There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure exists, wage levels customarily are fixed by individual agreement between employer and employee and are determined by supply and demand. Some employers provided workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage provided a decent standard of living for a worker and family. Two-income households were the norm. There are no regulations concerning working hours, paid weekly rest, rest breaks, or compulsory overtime. Working weeks of up to 60 hours and more were not uncommon.

In October the chief executive admitted the potential need to legislate a minimum wage for cleaners and securities guards, as a result of the government's "wage protection movement," sometimes referred to as the "voluntary wage movement," had thus far been unsatisfactory. This policy was enacted in October 2006 and sought to encourage employers to offer cleaners and security guards the average market wages for those types of work.

As a campaign for legislation on minimum wage gathered pace, hundreds of demonstrators from 40 unions marched on October 1 to demand a minimum wage of \$3.84 (HK\$30) an hour. At year's end the labor advisory board, first appointed in 2004, was still considering the issue of a minimum wage. Approximately 50 trade unions and associations protested the government's slow progress towards a minimum wage and accused it of exploiting the underprivileged and colluding with big business. However, there was no broad consensus in the community on these issues, which were debated by legislators, academics, and the public. The Labor Department actively sought to improve working conditions by encouraging consultations, meetings, and seminars with industry-based committees comprising representatives of government, employers' associations, and selected trade unions. Reports indicate that the Hong Kong Confederation of Trade Unions was consistently excluded from the labor advisory board.

The minimum wage for foreign domestic workers was approximately \$435 per month (HK\$3,400). The standard workweek was 48 hours, but many domestic workers worked much longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel

allowances, and food or a food allowance in addition to the minimum wage, which together provide a decent standard of living. Foreign domestic workers can be deported if dismissed. Labor groups reported that the 200,000 foreign domestic workers were still vulnerable to the extensive rights and contract violations. During the first six months of the year, three employers were convicted for labor law maltreatment violations under the Employment Ordinance relating to the employment of foreign domestic workers. During the first seven months of the year, 100 foreign domestic workers filed criminal suits for other types of maltreatment, including rape, indecent assault, and wounding and serious assault, 75 of which were prosecuted.

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, and policy formulation and implementation. The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Department conducted 58,486 workplace inspections and issued 872 summonses, resulting in a total of \$995,654 (HK\$7,766,100) in fines. Worker safety and health has improved over the years, but serious problems remained, particularly in the construction industry. The Labour Department reported 10,264 occupational injuries, of which 3,621 were classified as industrial accidents, and five fatal industrial accidents during the first half of the year. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

MACAU

Macau, with a population of approximately 526,000, is a Special Administrative Region (SAR) of the People's Republic of China (PRC) and enjoys a high degree of autonomy, except in defense and foreign affairs, under the SAR's constitution and the Basic Law. The government is led by a chief executive, chosen by a 300-member election committee, which in turn is chosen by a preparatory committee composed of 60 SAR and 40 mainland representatives appointed by the National People's Congress (NPC). In 2004 Chief Executive Edmund Ho was reelected to a second five-year term. In 2005 voters elected 12 of the legislature's 29 members in direct elections based on geographical constituencies. Interest groups in functional constituencies elected 10 others, and the chief executive appointed the remaining seven members. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, some problems remained, most notably limits on citizens' ability to change their government, trafficking in persons, and reported official corruption.

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 the government generally respected these rights. Between January and July, there were seven reports of police brutality, but none involved acts of rape, sexual abuse, medical abuse, or hazing. In 2006 the Public Prosecutions Office initiated prosecution for assault or brutality by police forces, none of which involved sufficient evidence to warrant action. There was one report of death in police custody during the first half of the year, which at year's end was being investigated by the Public Prosecutions Office.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and although the government permitted visits by independent human rights observers, there were no requests 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

Civilian authorities, specifically the secretary for security, supervised and controlled the police. Discipline, corruption, and impunity were not widespread problems in the Public Security Police. The Commission Against Corruption (CCAC) acted to preclude problems with police corruption.

Arrest and Detention

Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and detainees were allowed access to a lawyer of their choice or, if indigent, to one provided by the state. Detainees were allowed prompt access to family members. Police must present persons remanded in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. The law provides that cases must come to trial within six months of an indictment. The criminal procedure code mandates that pretrial detention is limited to between six months to three years, depending on the criminal charges and progress of the judicial system. Judges often refused bail in cases where sentences could exceed three years.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice. A public prosecutor general heads the Public Prosecutions Office, which enjoys substantial autonomy from both the executive and the judiciary. The law stipulates that the Public Prosecutions Office's functions be carried out without government interference, and the government respected the law in practice.

Both Portuguese and Chinese (Cantonese) are official languages, and either may be used by executive authorities, the legislature, and the judiciary. The need to translate laws and judgments from one language to the other and a shortage of local bilingual lawyers and magistrates hampered the development of the legal system.

Several top officials in the judiciary expressed concern over shortfalls in the judicial system. The top judge publicly criticized the severe shortage of judges and proposed that double the current number was needed. Twenty-nine judges, six of whom are Portuguese, serve in the judiciary. The public prosecutor general echoed these views, stating that the existing system of hearings and taking of evidence no longer met the demands of the SAR's society, and the president of the Macau Lawyers Association

stated that delays affecting the resolution of judicial cases were unacceptable.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The courts may rule on matters that are "the responsibility of the Central People's Government or concern the relationship between the central authorities and the SAR." However, before making their final judgment, which is not subject to appeal, the courts must seek an interpretation of relevant provisions from the NPC's Standing Committee. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, "shall follow the interpretation of the Standing Committee." The Standing Committee must consult the NPC's Committee for the Basic Law of the SAR before giving an interpretation of the law. This committee is composed of 10 members—five from the SAR and five from the mainland. The chief executive, the president of the SAR Legislative Assembly, and the president of the court of final appeal nominate the SAR members.

Defendants enjoy a presumption of innocence and have access to government-held evidence relevant to their cases and a right to appeal. Defendants have the right to confront witnesses, and public attorneys are provided for those who are financially incapable of engaging lawyers or paying expenses of proceedings. Trials are public and were by jury except at the magistrate-court level.

The judiciary provides citizens with a fair and efficient judicial process; however, due to an overloaded court system, a period of up to a year often passed between filing a civil case and its scheduled hearing.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures

There is an independent and impartial judiciary for civil matters, and there were no problems enforcing domestic court orders.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press and an effective judiciary combined to ensure freedom of speech and of the press.

The independent media were active and expressed a wide variety of views without restriction, as safeguarded by Article 27 of the Basic Law and Law 7/90/M, and international media operated freely. The dominant newspapers, mainly Chinese-language, supported mainland government positions in their editorial line. In May the Macau Media Workers Association complained that only a government-owned television station was allowed to film a meeting between the chief executive and local journalists after a Labor Day rally turned violent and that government information officials supervised the editing of the footage before it was released to other media sources. The government rejected the claims, and the Government Information Bureau conducted an internal review and reported its findings to the chief executive, but the findings were not made public.

In 2005 the chief editor of Hong Kong-based *Open Magazine*, which is openly critical of the mainland Chinese government, was refused entry to the SAR "based on Macau Special Administrative Region internal security guidelines." The editor, a mainland native, had been barred from the mainland since 1996 for criticizing the central government and disclosing insider stories barred from the SAR. At year's end the case was under investigation by the chief executive's office.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available; studies showed that approximately 40 percent of the population had regular access to the Internet, although less than half used or planned to use it.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom and cultural events.

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, in May there were some problems with security force practices in dealing with demonstrators. An estimated 2,400 residents participated in labor and anticorruption demonstrations on May 1 that turned violent after demonstrators veered off the approved march route and clashed with police. Police fired five warning shots into the air, and the violent clash resulted in 10 arrests and injuries to 21 police officers. Critics charged that the police actions were inappropriate; police defended their actions as necessary to prevent a stampede.

c. Freedom of Religion

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

Societal Abuses and Discrimination

Societal relations among various religious groups were generally amicable. There were no reports of anti-Semitic acts, and the size of the SAR's Jewish population remained extremely small.

For a more detailed discussion, see the *2007 International Religious Freedom Report*.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected them in practice.

Some Falun Gong practitioners complained of being denied entry into the SAR and claimed that the government did not specify reasons for denial; however, most denials appeared to be linked to overall periods of heightened political sensitivity rather than specific Falun Gong practitioners.

There were no known cases of media critical of the mainland government being denied entry during the reporting period.

The law prohibits forced exile, and the government generally respected the law in practice.

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 there is reason to believe they feared persecution. The Immigration Department cooperated with the UN High Commissioner for Refugees in handling refugees. During the year there were no applications for refugee status.

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

The law restricts citizens' ability to change their government. The government was led by a chief executive, chosen by a 300-member election committee, which in turn was chosen by a 100-member preparatory committee, composed of 60 SAR and 40 mainland representatives appointed by the NPC. Voters directly elected 12 of the 29 Legislative Assembly members, and local community interest groups indirectly elected 10 members. The remaining seven members were selected by the chief executive.

Elections and Political Participation

In 2004 Chief Executive Edmund Ho was reelected to a second five-year term. In 2005 the SAR held the third legislative elections, with 58 percent of registered voters participating. The elections were considered generally free and fair.

There are limits on the types of legislation that legislators may introduce. The law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the government. Proposed legislation related to government policies must receive the chief executive's written approval before it is submitted.

A 10-member executive council functions as an unofficial cabinet, approving draft legislation before it is presented in the Legislative Assembly. The Basic Law stipulates that the chief executive appoints members of the Executive Council of the Macau Special Administrative Region from among the principal officials of the executive authorities, members of the legislature, and public figures.

There were six women in the 29-member assembly, including the president of the assembly. Women also held a number of senior positions throughout the government. There were three members of ethnic minorities in the Legislative Assembly. One member of the executive council was also from an ethnic minority, as was the police commissioner.

Throughout the year local democracy activists and reporters questioned the government about steps toward universal suffrage in the SAR. Following the chief executive's policy address on November 13, reporters expressed concern that he did not mention the issue despite his earlier commitment to begin consultations during the year on universal suffrage for chief executive and legislative elections. The chief executive lauded public discourse on the issue but stated that the SAR had not met the criteria necessary to achieve full suffrage in either election in 2009.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, officials sometimes engaged in corruption. The CCAC investigates the public sector and has the power to arrest and detain suspects. Between January and June, the CCAC received 377 complaints against public officials in a variety of agencies. The CCAC pursued 11 of these complaints, 225 of which were criminal cases and 152 of which were administrative cases. The CCAC transferred seven cases to the Public Prosecutions Office. The Ombudsman Bureau, within the CCAC, was established to review complaints of maladministration or abuse by the CCAC, and there were no reports of complaints during the same period. There also is an independent committee outside CCAC called the Monitoring Committee on Discipline of the CCAC Personnel, which accepts and reviews complaints on CCAC personnel.

On August 31, the CCAC commissioner reported at a press conference that the antigraft body investigated 41 percent fewer cases in the first seven months of the year than during the same period in 2006. The commissioner attributed the decrease to a "lack staff." Furthermore, there was widespread public concern over corruption in the executive branch and the lack of transparency between the government and the business sector. The arrest of the former secretary for transport and public works exacerbated rising social tensions despite the soaring economy. Labor protests decried a growing wealth gap, flawed governance, and rising corruption, especially over government land sales to developers.

On June 6, the former public works secretary, Ao Man Long, was formally charged by the public prosecutor with abuse of power, acceptance of bribes, money laundering, and unknown sources of large amounts of assets. Ao's charges followed six months of investigation that uncovered assets exceeding \$102 million (800 million patacas). On December 12, the month-long corruption trial in the Court of Final Appeal ended, although at year's end a verdict had not been announced. Following the trial, the CCAC commissioner reportedly said that the commission was monitoring the government's land-lease authorizations and the approval of public construction projects as part of its routine antigraft prevention measures.

The law does not provide for public access to government information. However, the executive branch published online, in both Portuguese and Chinese, an extensive amount of information on laws, regulations, ordinances, government policies and procedures, and biographies of government officials. The government also issued a daily press release on topics of public concern. The information provided by the legislature was less extensive. For example, it did not publish a legislative agenda or a list of pending bills.

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 often were cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law stipulates that residents shall be free from discrimination, and the government effectively enforced the law. In addition, many local laws carry specific prohibitions against discrimination, although there is no specific law for combating discrimination.

Women

The law criminalizes rape, including spousal rape, and the government effectively enforced the law. In the first half of the year, there were four reported rapes. Rape was not a pervasive problem, and the police and courts promptly acted on rape cases.

The government effectively enforced criminal statutes prohibiting domestic violence against women and prosecuted violators; however, various nongovernmental organizations (NGOs) and government officials considered domestic violence against women to be a growing problem. In the first half of the year, 51 cases of domestic violence, including 22 cases of spousal abuse, were reported to the police, 49 of which were prosecuted.

Domestic violence is punishable by one to 15 years in prison. In the case of both spousal abuse and violence against minors, the penalty is two to eight years' imprisonment and five to 15 years if the abuse leads to the death of the victim. There was no data on reported cases of spousal abuse and violence against minors.

The government provided hospital treatment for victims of abuse, and medical social workers counseled victims and informed them about social welfare services. The government may provide victims of domestic violence with public housing until their complaints are resolved, but it did not reserve facilities expressly for this purpose.

Private and religious groups sponsored programs for victims of domestic violence, and the government supported and helped to fund these organizations and programs. The Bureau for Family Action, a government organization subordinate to the Department of Family and Community of the Social Welfare Institute, helped female victims of domestic violence by providing a safe place for them and their children and furnishing advice regarding legal actions against the perpetrators. A family counseling service was available to persons who requested such services at social centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence.

Prostitution is legal and common; however, procurement and the operation of a brothel are illegal. Nevertheless, the SAR had a large sex trade, including brothels, most of which were believed to be controlled by Chinese organized crime groups, and many of those exploited by the trade were women.

There is no law specifically addressing sexual harassment, although harassment in general is prohibited and was not widespread.

Equal opportunity legislation mandates that women receive equal pay for equal work; however, observers estimated that there was a significant difference in salary between men and women, particularly in unskilled jobs. The law allows for civil suits, but few women took their cases to the Labor Affairs Bureau or other entities. Discrimination in hiring practices based on gender or physical ability is prohibited by law, and penalties exist for employers who violate these guidelines. There were no reports on alleging sexual discrimination during the first half of the year.

Children

The government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citizens. The law specifically provides for criminal punishment for sexual abuse of children and students, statutory rape, and procurement involving minors. The age of criminal responsibility is 16.

School attendance is compulsory for all children between ages five and 15 through general secondary education. Basic education was provided in government-run schools and subsidized private schools. The Education Department provided assistance to families that could not pay school fees. The children of illegal immigrants were excluded from the educational system. Experts believed this exclusion affected only a few children. Boys and girls attended school in equal proportions.

The government provided free medical care for all children. Child abuse and exploitation were not widespread problems. During the first half of the year, one case of child abuse and 91 cases of offenses against the physical integrity of minors were reported to the police. During the same period, the police received three reports of rape of minors and no reports of sexual assault against minors.

Trafficking in Persons

The law prohibits only the trafficking of persons out of the SAR, which is punishable by two to 15 years in prison; there is no law addressing the trafficking of persons into the SAR or the involuntary servitude of persons within the SAR. Penalties for transnational trafficking out of the SAR increase if the victim is underage; if the trafficker rapes the victim, the two offenses are treated as different crimes. For instances of trafficking within or to the SAR, the government has other statutes that it can use to prosecute traffickers. For example, although prostitution is legal, a "procurement" law makes it a crime to instigate, favor, or facilitate the practice of prostitution by another person for the purposes of profit or as a way of life, although the penalties for this lighter crime are less severe and the "procurement" crime does not recognize a victim. No investigations into or prosecutions of trafficking under existing laws were reported.

The SAR is a transit and destination point for women trafficked for the purposes of sexual servitude. While the majority of foreign women who entered the SAR to become prostitutes were believed to have done so voluntarily, there was evidence that some had been deceived or coerced into participating in the commercial sex trade. Some foreign victims were misinformed about their destination and diverted to the SAR, where they were trafficked into prostitution.

During the first half of the year, nine women claimed to have been brought to the SAR under false pretenses to work as prostitutes, most of whom were found to be coerced and were not fined, imprisoned, or deported unless they had violated the law, including immigration statutes. There was one complaint of abuse of a prostitute between January and June. Authorities believed that Chinese, Russian, and Thai criminal syndicates were involved in trafficking women to the SAR for prostitution, after which victims were passed on to local crime syndicates. There were no confirmed reports of official involvement in human trafficking. Victims were primarily from mainland China, Mongolia, Russia, eastern Europe, Vietnam, and Thailand.

There were no dedicated government assistance programs for victims of trafficking, and no NGOs focused specifically on trafficking-related problems; however, there were charity organizations that provided assistance and shelter to women and children who were victims of trafficking.

In September the government publicly announced the establishment of an interagency "concern committee" focused on human trafficking. The government directive also called for a comprehensive review of trafficking-related law to conform them to international standards. Between September and December, the "Commission to Supervise the Implementation of Dissuasive Measures for Human Trafficking" met three times to explore future cooperation with local NGOs, including the establishment of a hot line for reporting cases of human trafficking, the drafting of a new law for combating human trafficking, and outreach activities.

On October 10, the Consultative Commission on Women's Affairs (CCWA), a 25-member advisory body comprising representatives from government, private industry, legal and social organizations which reports to the government on ways to promote women's rights and interests, briefed the chief executive—who also leads the group—on its antitrafficking activities. The CCWA reportedly met in August to study ways to improve efforts to combat human trafficking and raise civil awareness. In November the group met with the Judiciary Police to study ways to improve enforcement measures against trafficking, and later that month it also met with the Legal Affairs Bureau to review draft legislation to update Macau's antitrafficking laws and comply with international standards.

Persons with Disabilities

The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. There were no reports of discrimination against persons with disabilities in employment, education, or provision of state services. There were no reports related to government restrictions on the right of persons with disabilities to vote or participate in civic affairs, and the Social Welfare Institute was primarily responsible for coordinating and funding public assistance programs to persons with disabilities.

Other Societal Abuses and Discrimination

There were no reports of societal violence or discrimination based on sexual orientation or against persons with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right of workers to form and join unions or "labor associations" of their choice without previous authorization or excessive requirement, and the government generally respected this right in practice. However, new guidelines adopted by the CCAC require that civil servants must obtain approval from their managers before joining associations or becoming leaders in labor associations. The Union for Democracy Development Macau (UDDM) expressed concern that the local law contains no explicit provisions that bar discrimination against unions. The law also specifically excludes public servants, domestic workers, and migrant workers from labor law protections, including the right of association. At the beginning of the year, there were 186 registered labor associations and 227 employers' associations. There was no data on the percentage of unionized workers.

According to the International Trade Union Confederation (ITUC), due to the mainland government's strong influence over local trade union activities, including the direct selection of the leadership of the Federation of Trade Unions (FTU), independence of trade unions was undermined and the protection of the trade union members' rights compromised. Mainland government policies emphasized minimizing workplace disruption, and some unions were criticized for tending to resemble local traditional neighborhood associations promoting social and cultural activities. The UDDM and some local journalists claimed that the FTU was more interested in providing social and recreational services than in addressing labor problems such as wages, benefits, and working conditions.

b. The Right to Organize and Bargain Collectively

The law provides that agreements concluded between employers and workers shall be valid, but there is no specific statutory protection that provides for the right to collective bargaining; however, the government did not impede or discourage collective bargaining. Pro-mainland unions traditionally have not attempted to engage in collective bargaining. Migrant workers and public servants did not have the right to bargain collectively.

Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant workers, who were issued short-term contracts. Labor groups reported that employers increasingly used temporary contracts as a means to circumvent obligations to pay for workers' benefits such as pensions, sick leave, and paid holidays.

There is no specific protection in local law from retribution if workers exercise their right to strike. The government argued that striking employees are protected from retaliation by labor law provisions, which require an employer to have "justified cause" to dismiss an employee; however, there were reports that the government failed to enforce these provisions. Strikes, rallies, and demonstrations were not permitted in the vicinity of the chief executive's office, the Legislative Assembly, and other key government buildings. In addition, the ITUC reported that violations of restrictions imposed on public meetings and demonstrations were punishable by imprisonment and forced labor.

On October 1, approximately 1,000 citizens took part in peaceful demonstrations protesting government corruption and raised labor problems such as the influx of illegal workers, which they claimed numbered approximately 70,000. Illegal laborers were not protected by labor laws. Similar concerns were raised during the May 1 protest.

Workers who believed they were dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the high commissioner against corruption and administrative illegality, who also functions as an ombudsman. However, migrant workers had no right to such legal recourse.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an "exceptional basis." Some children reportedly worked in family-run or small businesses. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions were applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted. In 2005 the Labor Department Inspectorate conducted a special inspection specifically aimed at enforcing child labor laws. During the inspection 476 companies were visited, and 17 were found to have violated child labor laws by employing 29 minors between 14 and 16 years of age. A similar inspection was conducted during the year, but data was not available by year's end.

e. Acceptable Conditions of Work

Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements. There was no mandatory minimum wage except for government-outsourced security guards and cleaners. A dispatch published in the government's official gazette stipulated that, beginning September 1, all government agencies would pay a minimum wage to workers in these industries, that service providers not complying with the rule could be fined, and that the Labor Affairs Bureau was responsible for dealing with complaints. Following the dispatch, public debate arose over whether a minimum wage should be extended to other sectors. Average wages provided a decent standard of living for a worker and family.

In addition to the estimated 60,000 migrant workers, the use of illegally imported workers increased. The ITUC maintained that under the labor law, the high percentage of foreign labor was eroding the bargaining power of local residents to improve working conditions and increase wages.

Labor legislation provides for a 48-hour workweek, an eight-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period each week, workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers upon request.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. During 2006 and the first half of 2007, the Labor Department inspectorate conducted 6,142 inspections and uncovered 3,934 violations carrying fines totaling approximately \$179,000 (1.4 million patacas). From January to September, there were six work-related deaths. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protected employees' right to continued employment if they refused to work under dangerous conditions. According to the government, migrant workers, mainly from the mainland and Southeast Asia, made up approximately 26 percent of the work force.

 [BACK TO TOP](#)



Taiwan

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Taiwan's population of 23 million is governed by a president and parliament chosen in multiparty elections. In 2004 voters elected President Chen Shui-bian of the Democratic Progressive Party (DPP) in an election that was generally regarded as free and fair. The civilian authorities generally maintained effective control of the security forces.

Taiwan generally respected the human rights of its citizens; however, there continued to be problems reported in the following areas: corruption by officials, violence and discrimination against women, trafficking in persons, and abuses of 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

There were no reports that the authorities 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 constitution stipulates that no violence, threat, inducement, fraud, or other improper means should be used against accused persons, and there were no reports that the authorities employed them.

Prison and Detention Center Conditions

Prison conditions generally met international standards, and the authorities permitted visits by independent human rights observers. As of July prisons operated at 101 percent of design capacity.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the authorities generally observed these prohibitions.

Role of the Police and Security Apparatus

The National Police Administration (NPA) of the Ministry of Interior (MOI) has administrative jurisdiction over all police units.

Police corruption continued to be a problem. In January a court convicted a former police officer of the kidnapping and murder of a wealthy businessman. Former supervisors and colleagues were under investigation for failing to properly investigate the case. In February seven police officers were arrested for taking bribes from construction companies. In August three police officers from two different districts were arrested and charged with accepting bribes from a prostitution ring. In September two police officers were arrested for accepting bribes from an illegal casino operation.

Prosecutors and the Control Yuan were responsible for investigating allegations of police malfeasance. The NPA also had an inspector general and an internal affairs division that investigated allegations of police misconduct. Police officers and senior officials suspected of corruption were prosecuted and punished upon conviction.

Arrest and Detention

Warrants or summons were required by law except when there was ample reason to believe the suspect may flee, or when circumstances were too urgent to apply for a summons prior to questioning. Indicted persons may be released on bail at judicial discretion. By law, prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The authorities generally observed these procedures, and trials usually took place within three months of indictment.

Human rights advocates complained that the law did not provide adequate protection since suspects were not entitled to legal representation during questioning. Legal counsel was allowed, but not required, to be present at police interrogations. In response to this complaint, the Judicial Yuan (JY) and NPA initiated in September a one-year pilot program to provide legal counsel during initial police questioning to qualifying indigent suspects who are mentally handicapped or charged with a crime punishable by three or more years in prison. Lawyers recruited by the Legal Aid Foundation were posted to police stations in fifteen cities and counties. Police and prosecutors were required to provide written notice of the service to qualifying defendants.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the authorities generally respected judicial independence. However, although the authorities made efforts to eliminate corruption and to diminish political influence in the judiciary, residual problems remained. During the year many political leaders publicly questioned the impartiality of judges and prosecutors involved in several high-profile and politically sensitive cases.

The JY is one of the five coequal branches of the political system and includes the 15-member Council of Grand Justices, which interprets the constitution as well as laws and ordinances. Subordinate JY organs include the Supreme Court, high courts, district courts, administrative courts, and the Committee on the Discipline of Public Functionaries.

Active-duty military personnel were subject to the military justice system, which provided the same protections as the civil criminal courts. However, critics contended that there was insufficient separation between military prosecutors and judges, who were usually officers in the same unit and under the same command, to properly safeguard a defendant's interests.

Trial Procedures

The constitution establishes the right to a fair trial, and an independent judiciary generally enforced this right. Judges, rather than juries, decided cases; all judges were appointed by and responsible to the JY. A single judge, rather than a defense attorney or prosecutor, typically interrogated parties and witnesses. Trials were public, although court permission may be required to attend trials involving juveniles or potentially sensitive issues that might attract crowds. A defendant's access to evidence held by the prosecution was determined by the presiding judge on a case-by-case basis. All defendants were presumed innocent until proven guilty and had the right to an attorney, and criminal procedure rights were extended to all persons without limitation.

Indigent criminal suspects are not entitled to legal counsel during initial police questioning; however, after an indictment is filed, courts are required to appoint counsel. Human rights lawyers contend that indigent defendants cannot be guaranteed a fair trial unless they are provided legal counsel at the outset of a criminal investigation.

The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of three years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences. It is unconstitutional to allow the confessions of accomplices to be used as the only evidence to convict a defendant.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters. Administrative remedies are available in addition to judicial remedies for alleged wrongs, including human rights violations. There were no reports of problems enforcing domestic court orders.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the authorities generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice.

There was a vigorous and active free press. Critics alleged that dependency upon advertising revenue and loans from government-controlled banks deterred a few media outlets from criticizing the authorities. The authorities denied using loans or advertising revenue to manipulate the media.

PRC journalists were granted a maximum stay of 30 days. PRC national news outlets China Central Television, China National Radio, and China News Service regularly assigned up to two journalists to Taiwan at a time. As of September there were six journalists from these news agencies on one-month assignments on Taiwan. Journalists from Xinhua News Agency and *People's Daily* were permitted to visit Taiwan but were not granted the maximum one-month stay.

On March 6, several Taiwan newspapers ran an Associated Press (AP) article about Vice President Annette Lu that contained disparaging quotes from Chinese officials. CNN also posted the article on its Web site. Vice President Lu demanded an apology from AP and CNN. On March 8, a group of legislators asked the Government Information Office (GIO) minister to expel the AP reporter who wrote the article. On March 9, the GIO minister announced that the reporter's visa would be revoked and that he would be expelled from Taiwan. The GIO minister recanted later the same day, and the reporter was not expelled. After a meeting between GIO and AP, AP offered to interview Vice President Lu. On March 29, the interview was conducted and published.

On March 26, pro-opposition cable television station TVBS ran footage of a local gangster brandishing various weapons while threatening to kill a rival. It was later discovered that personnel from the cable television station had been involved in the filming. Facing criticism, the TVBS general manager issued a public apology, and fired the reporters involved. On March 30, the National Communications Commission (NCC) fined the station and its subsidiary a total of \$60,400 (NT\$2 million) and demanded the general manager's resignation. The general manager resigned on April 2.

On May 8, it was revealed that a pro-ruling party television station had wrongly used footage of a 1948 massacre in Shanghai, China, to portray killings that took place on Taiwan in 1947. The footage was included as part of a GIO-commissioned documentary aired March 3-7. Station executives and the documentary editor apologized publicly but denied intentional wrongdoing. The GIO canceled the contract for the documentary. The NCC also fined the station \$30,200 (NT\$1 million) and ordered station executives to take eight hours of ethics instruction. Opposition-party political leaders and pro-opposition media outlets charged that the ruling party had showed political favoritism by meting out lighter punishment for the pro-ruling-party television station.

In April 2006 a Taipei court ordered a *United Daily News* reporter named Kao to pay a fine of \$1,000 (NT\$30,000) per day until he revealed the source for a report that caused the stock of a company to plummet. Kao was accused of aiding criminal activities and disrupting the financial market. The public reacted negatively to Kao's fine, and it was suspended. Kao's first appeal of the conviction was rejected on September 14. Kao's second appeal was pending at year's end.

In October 2006 the Constitutional Court (CC) held that freedom of publication is not an absolute right, stipulating that certain sexually explicit materials are protected only as long as they are properly packaged and labeled. Based on the CC interpretation, the owner of a gay bookstore appealed his 2005 conviction for violating the criminal code, which bans the sale, circulation, and public display of obscene publications. The owner argued the magazines were legally imported from Hong Kong and had been properly packaged in opaque wrappers as required by adult publications ordinances.

The GIO, which requires that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication, has the authority to ban importation of publications that advocate communism or the establishment of united front organizations, endanger public order or good morals, or violate laws. Nevertheless, a wide variety of mainland China-origin material was accessible through the Internet as well as in retail stores. Cable television systems were required to send imported material to the GIO for screening or to convert subtitles from the simplified characters used in mainland China to traditional characters before broadcasting.

Internet Freedom

There were generally no official restrictions on access to the Internet and individuals and groups could engage in peaceful expression of views via the Internet, including by email. However, Internet content rating regulations issued by GIO require all Taiwan Web site operators to voluntarily label their Web site material, making it easier for

software filters to detect and block access to adult-only material for children under age 18. The GIO authorized the Taiwan Internet Content Rating Promotion Foundation (TICRF) to provide free filtering software to parents. The GIO did not block access to restricted Web sites. According to TICRF, 93 percent of these Web sites independently labeled themselves in compliance with applicable regulations.

Several nongovernmental organizations (NGOs) reported that law enforcement officials monitored Internet chat rooms and bulletin boards and used Internet addresses to identify and prosecute adults responsible for posting sexually suggestive messages. Critics alleged the Child and Youth Sexual Transaction Prevention Act (CYSTPA), which is intended to protect children from sexual predators, is being used to punish constitutionally protected free speech between consenting adults.

Academic Freedom and Cultural Events

The law prohibits teachings, writings, or research that advocate communism or communist united front organizations, which endanger the public order or good morals, or violate regulations or laws. The authorities did not otherwise restrict academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the authorities generally respected these rights in practice. However, opposition-party legislators and human rights NGOs claimed that the Assembly and Parade Law unconstitutionally restricted free speech and assembly, and called for it to be amended or abolished.

On August 3, authorities charged sixteen participants in anticorruption protests staged in October 2006 with failure to obtain a protest permit and failure to comply with a police order to disperse, in violation of the Assembly and Parade Law. According to human rights NGOs and media reports, protesters campaigning for education, labor, and environmental reforms were also charged with violating the law.

c. Freedom of Religion

The constitution provides for freedom of religion, and the authorities generally respected this right in practice.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against persons for their religious beliefs or practices, and no reports of anti-Semitic acts. The Jewish population numbered approximately 150 persons.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within Taiwan, foreign travel, emigration, and repatriation, and the authorities generally respected these rights in practice.

All travelers from the People's Republic of China (PRC) are required to have invitations from sponsors and are subject to approval by the Mainland Affairs Council. PRC tourists must travel in groups, stay at designated hotels, and return to their hotel rooms by 10 p.m. PRC tour groups must be chaperoned by a Taiwan travel agency, which is required to post a \$60,400 (NT\$2 million) bond for each group. Part or the entire bond can be forfeited if any tour group member is involved in legal problems or is reported missing. The Tourism Bureau must be notified in advance of any change to a tour group itinerary. PRC visitors who come to Taiwan for family and business purposes are required to regularly report their location to the police.

The law does not provide for forced exile, and it was not practiced.

According to Taiwan's Cross-Strait Relations Act, its citizens residing in the PRC will lose citizenship if they do not return within four years. They may apply to recover citizenship through relatives or a legal representative. Applications to recover citizenship were regularly granted, and there were no reports of rejected applications.

Protection of Refugees

The law does not provide for the granting of asylum or refugee status. All PRC citizens unlawfully present are required by law to be returned to the PRC, including victims of human trafficking. At year's end there were six PRC nationals on Taiwan seeking asylum in a third country.

Throughout the year the authorities repatriated illegal immigrants to their countries of origin. According to MOI, the total number of illegal PRC immigrants deported to the mainland continued to decline, from 1,596 in 2006 to 595 by November 2007. As of December, 1,870 illegal PRC immigrants were in detention centers awaiting repatriation.

PRC illegal immigrants continued to spend long periods in detention, waiting an average of 204 days to be repatriated. By comparison, non-PRC illegal aliens averaged just 37 days in detention before repatriation. MOI claimed that some PRC detainees gave false name and age information, making it difficult for PRC authorities to properly identify them. Some detainees were charged with criminal acts and awaited trial and sentencing before repatriation. MOI also faulted the PRC government for causing procedural delays.

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

The constitution provides citizens the right to elect and change their political leaders peacefully and this right was exercised in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

Political parties operate without restriction or outside interference.

In 2004 voters elected President Chen Shui-bian, and the opposition KMT-PFP coalition won a narrow majority in the Legislative Yuan (LY). The elections were generally regarded as free and fair.

On February 2, a court indicted two men for allegedly paying voters to support a candidate for Kaohsiung City Council.

There were 46 women in the 217-member LY. The vice president and vice premier were women. On August 20, Yeh Chu-lan became Taiwan's first female presidential office secretary-general. Seven of the 49 Executive Yuan (EY) members were women. Three of the 21 members of the Examination Yuan were women. Three of the 13 grand justices were women. Three of the 15 members of the DPP central standing committee and 12 of the 30 members of the DPP central executive committee were

women. Eleven of the 33 members of the KMT central standing committee were women. At least half of the at-large seats won by a political party were required to be filled by female candidates.

Representatives of the indigenous population participated in most levels of the political system. They held eight reserved seats in the LY, half of which were elected by plains tribes and half by mountain tribes. Indigenous peoples accounted for about 2 percent of the population; their allocation of legislative seats was almost double their proportional representation. A member of an indigenous group served as Chairman of the Council of Indigenous Peoples.

Government Corruption and Transparency

There were allegations of official corruption during the year. However, the authorities continued to take action to combat corruption. Allegations of vote buying continued, although all political parties were publicly committed to ending the practice.

Regulations took effect in 2006 that require political appointees to the EY and its subordinate agencies to place all financial assets into a trust within three months of assuming office and, for those already in office, within three months of the effective date of the regulations.

During the year several prominent figures from both the ruling and opposition parties were indicted for the alleged misuse of special discretionary funds made available to them as office-holders. Many observers remarked that the law regarding the use of these funds was unclear and was in need of reform.

On February 8, prosecutors charged the director of the Civil Aeronautics Administration and three senior aeronautics officials with accepting kickbacks from contractors performing an airport construction project.

On April 11, the Tainan city mayor and three city officials were indicted for alleged profiteering on a public construction project.

On August 9, an economics vice minister was charged with corruption for allegedly rigging the bidding process for publicly funded water conservation construction projects.

On August 18, a DPP legislator and 20 others were charged with forgery and violation of banking laws in connection with an illegal loan scheme.

In August the former presidential office deputy secretary-general was cleared of charges for insider trading and corruption. The November 2006 corruption case against the first lady was still pending. In December 2006 the president's son-in-law was convicted of corruption for insider trading, and in June his prison sentence was increased to seven years. His case is on its second appeal.

By June prosecutors had indicted 970 persons on various corruption charges and had convicted 477 persons. Of those accused, 70 were high-ranking officials, 152 were mid-level, 201 were low-level, and 23 were elected officials.

The "Access to Government Information Law" stipulates that all government information be made available to the public upon request, except national secrets, professional secrets, personal information, and protected intellectual property. The law provides that citizens, companies, and groups registered in Taiwan can submit information requests and can appeal denied requests. These privileges are extended on a reciprocal basis to citizens of foreign countries.

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 restriction by authorities, investigating and publishing their findings on human rights cases. The authorities were cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equality of citizens before the law irrespective of sex, religion, race, class, or party affiliation. It also provides for the rights of persons with disabilities.

Women

Violence against women, including rape and domestic violence remained a serious problem. Rape, including spousal rape, is a crime; its victims were socially stigmatized. The MOI estimated that the total number of sexual assaults was 10 times the number reported to the police.

The law provides protection for rape victims. Mentally handicapped victims and those under 16 years of age are allowed to testify via a two-way television system. Rape trials may not be open to the public unless the victim provides consent. The law requires doctors, social workers, police, and prosecutors to jointly question victims of sexual abuse whenever possible to reduce the number of times a victim is questioned. The law permits a charge of rape without requiring the victim to press charges.

The law establishes the punishment for rape as not less than five years' imprisonment, and those convicted usually were given prison sentences of five to 10 years. According to the MOI, 6,364 reports of rape or sexual assault were filed through October. Prosecutors tried 1,915 of those cases and convicted 1,590 persons. Women's rights activists criticized law enforcement for bringing only a small percentage of perpetrators to justice.

The law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit.

By October a total of 60,326 cases of domestic violence had been reported, representing a projected 2 percent rise in reported cases over 2006. MOI cited this increase as evidence that women were more willing to report domestic violence. As of October a total of 2,279 persons had been prosecuted for domestic violence, and 1,590 persons had been convicted. Typically persons convicted in domestic violence cases were sentenced to less than six months in prison. Strong social pressure not to disgrace their families discouraged abused women from reporting incidents to the police.

The law requires all cities and counties to establish violence prevention and control centers to address domestic and sexual violence, child abuse, and elder abuse. These centers provided victims with protection, medical treatment, emergency assistance, shelter, legal counseling, and education and training on a 24-hour basis. As of November the centers obtained 27,051 protection orders from the courts.

Prostitution was illegal. Prostitution, including child prostitution, was a problem. Trafficking in women remained a problem. The authorities continued to report the arrest of a significant number of prostitutes from Southeast Asian countries, mainly Vietnam, Indonesia, and Cambodia.

A March poll conducted by a women's rights NGO indicated that 75 percent of women feared harassment on public transportation, and 83 percent were concerned about the risk of sexual assault by taxi drivers. Only 39 percent of respondents knew where to seek help after experiencing sexual harassment or sexual assault.

Sexual harassment is a crime. Violators face fines of \$3,000 to \$30,000 (NT\$100,000 to NT\$1 million) and imprisonment for up to two years. All public employers and

larger private employers were required to enact preventive measures and establish complaint procedures to deter sexual harassment. Hot lines were established in several major cities, but reporting levels were well below expectations. Women's groups criticized the implementation of the law as ineffective, attributing low reporting rates to inadequate publicity.

The law prohibits sex discrimination and stipulates that measures be taken to eliminate sexual harassment in the workplace. The Gender Equality in Employment Act (GEEA) provides for equal treatment with regard to salaries, promotions, and assignments. The GEEA entitles women to request up to two years of unpaid maternity leave and forbids termination because of pregnancy or marriage. According to a Council for Labor Affairs (CLA) poll, 70 percent of female employees stated the GEEA had helped remove employment barriers for women. Despite the law, women continued to be denied maternity leave or were forced to quit jobs due to marriage, age, or pregnancy. According to the same poll, nearly 20 percent of pregnant employees claimed to have been discriminated against, and more than half of the employers polled did not offer adequate parental leave benefits.

Women's advocates noted that women continued to be promoted less frequently, occupied fewer management positions, and worked for lower pay than their male counterparts. Women made up 49 percent of the total workforce and more than 50 percent of the service industry workforce. According to the CLA, salaries for women averaged 85 percent of those for men performing comparable jobs.

In September a legislator criticized the Ministry of National Defense (MND) for restricting the number of scholarships offered to female cadets, while praising MND's commitment to increase the total number of female recruits from 3 percent in 2005 to 8 percent by 2011.

Children

The authorities were committed to the rights and welfare of children, and the law included provisions to protect them. Education for children between six and 15 years of age was free, universal, compulsory, and enforced. According to official statistics, 99 percent of school-age children attended primary and middle school. Children were provided health care under the national health insurance plan.

Child abuse continued to be a widespread and growing problem. Through September 13,972 cases had been reported, including cases of physical, mental, or sexual abuse or harm due to guardian neglect, marking a projected increase of 33 percent over 2006. Approximately 90 percent of abusers were parents, relatives, or caregivers. Hospitals, schools, social welfare organizations, or the police reported 60 percent of all cases, with 40 percent of reports coming from family members or the public. Fifty percent of all cases were reported through the child abuse hot line. Central and local authorities, as well as private organizations, continued efforts to identify and assist high-risk children and families and to increase public awareness of child abuse and domestic violence.

In 2006 the authorities instituted a \$93 (NT\$3,000) per month, per child subsidy program aimed at reducing financial stress on lower-income families deemed to be at high risk for child abuse. MOI tripled funding for social welfare services to \$4.2 million (NT\$135 million), appropriating an additional \$975,000 (NT\$31.5 million) to hire 140 new child welfare case managers. Child welfare specialists claimed that even with the additional subsidies, funding to prevent and respond to domestic violence and child abuse was inadequate. In January NGOs reported that Taiwan's 1,071 social workers handled excessively large caseloads, and that an additional 5,000 social workers were needed.

By law, persons discovering cases of child abuse or neglect must notify the police or welfare authorities. Child welfare specialists must notify the local authorities within 24 hours, and authorities must take appropriate measures within 24 hours. Regulations encourage officials to respond to investigation requests within four days. The MOI Children's Bureau and NGO specialists monitored cases to ensure that requirements were met. An official hot line accepted complaints of child abuse and offered counseling. Courts were authorized to appoint guardians for children who lost their parents or whose parents were deemed unfit.

Solicitors of child prostitutes under the age of 14 faced sentences of three to 10 years in prison. Those who patronized prostitutes between the ages of 14 to 16 were sentenced to three to seven years. Solicitors of child prostitutes older than 16 but younger than 18 faced up to one year in prison or hard labor, or a fine up to \$100,000 (NT\$3 million). According to the MOI Children's Bureau and local NGOs, 400-600 children per year were rescued from prostitution and placed in shelters. NGOs reported a significant increase in the number of boys exploited as prostitutes.

Advertisements related to prostitution or commercial sex were prohibited and the law was enforced in practice. Citizens arrested abroad for having sex with minors were also indicted and convicted for patronizing underage prostitutes in foreign countries.

During the year 1,210 persons were indicted and 980 persons were convicted of violating the CYSTPA, which criminalized child prostitution and the possession and distribution of child pornography. This was a 21 percent increase in indictments and an 11 percent increase in convictions from 2006. The law required publication of violator names in the newspaper.

Trafficking in Persons

There was no comprehensive trafficking law, although most forms of trafficking were criminalized through a number of statutes. The law did not address prevention of trafficking or victim protection, which authorities nonetheless provided on an ad hoc basis. The MOI, Ministry of Justice (MOJ), National Immigration Agency (NIA), CLA, and NPA, and several other agencies were responsible for combating trafficking. Trafficking in persons continued to be a problem.

Taiwan is primarily a destination country for Southeast Asian and PRC nationals trafficked into forced labor or sexual exploitation. There were numerous reports of women, primarily from Indonesia, Vietnam, the Philippines, and Thailand, being forced or coerced into the commercial sex trade after receiving fraudulent offers of employment or marriage from dishonest labor or marriage brokers. There also were reports of women being trafficked from Taiwan for sexual exploitation purposes to Canada, Japan, the United Kingdom, the United States, and other countries.

Traffickers continued to use fraudulent marriages as a method for human trafficking, in part because penalties for "husbands" were lenient. To counteract the abuse of the spousal visa program, Taiwan required spousal visa applicants from the PRC, Burma, Cambodia, Indonesia, Thailand, the Philippines, and Vietnam to undergo interviews in their home countries before departing for Taiwan. Additionally, foreign spouses and their prospective mates must undergo a second interview upon the foreign spouse's arrival on Taiwan. In 2006 the MOI banned the formation of new cross-border matchmaking companies and announced that existing firms would be subject to stricter regulation and monitoring.

Labor trafficking remained a serious problem. Labor brokers charged much more for high-wage factory jobs than for low-wage household worker positions. NGOs reported that foreign workers who paid higher fees to secure high-wage factory jobs were often forced by their broker to accept low-wage household work upon arrival in Taiwan. NGOs also reported that household workers were often forced by their employers to work in factories or construction sites, but were only paid the lower household worker wage. NGOs reported that brokers and employers regularly imposed high brokerage fees and other charges on foreign workers, frequently using the debt as a tool for involuntary servitude; adding that foreign workers were unwilling to report employer abuses for fear the employer would terminate the contract and forcibly deport them, leaving them unable to pay back debt accrued to brokers or others. Household workers were forbidden from changing jobs or employers except under rare circumstances and were often not fully informed of available recourse in the event of abuse.

During the year 423 persons were indicted for trafficking related offenses; this was a 62 percent increase over 2006. At year's end some 350 cases were still pending; prosecutors tried and convicted 74 defendants, which was a 20 percent decrease from 2006. Sixteen persons were convicted of exploiting children for prostitution: three were sentenced to seven to 10 years in prison, four were sentenced to three to five years, and nine received sentences of less than one year. Another 53 defendants were convicted of forced prostitution: two were sentenced to seven to 10 years; seven were sentenced to one to three years; and 44 were sentenced to less than one year. Five defendants were convicted of forced labor, and all five were sentenced to less than one year in prison.

Incidents of public employees or officials implicated in trafficking were rare, but they did occur. On February 27, a former clerk at the Bureau of Immigration, now NIA, was indicted for helping a criminal organization smuggle Chinese women into Taiwan for prostitution. In March blank alien multiple-entry permits were found missing from an NIA service center in Taipei. NIA officials canceled the 200 missing permits, suspended the officer suspected of taking them, and demoted the director of the Taipei service center. On April 13, two members of the NIA's Taoyuan County antitrafficking task force were arrested for allegedly extorting money from employers in return for ignoring labor violations and for helping to conceal human trafficking rings operating in Taoyuan. On August 7, the director of the NIA office in Chiayi County was arrested for allegedly accepting payments in exchange for helping traffickers conceal and exploit illegal foreign workers.

In April the authorities issued island-wide guidelines for identification and treatment of trafficking victims. The MOI and MOJ conducted dozens of exercises to train police, immigration officials, and other law enforcement personnel in identifying victims. During the year several groups of foreign workers and foreign spouses were identified by police and prosecutors as trafficking victims and were released to NGO shelters. NGOs reported, however, that significant numbers of trafficking victims went undetected and instead were incarcerated in detention centers and punished for violating immigration, foreign labor, or prostitution laws.

NGOs asserted that failure to educate foreign workers and foreign spouses about their rights and protections left them distrustful of the authorities and vulnerable to misinformation and abuse from spouses, employers, and labor brokers. NGOs claimed that traffickers were able to operate with relative impunity because law enforcement resources dedicated to combat trafficking continued to be inadequate.

During the year a senior-level prosecutor unit was established to supervise district court handling of trafficking cases. Antitrafficking task forces were established within NIA, NPA, Coast Guard, and the 21 district court offices. Improved collaboration between central law enforcement authorities, district prosecutors, and local law enforcement significantly increased the number of investigations, arrests, prosecutions, and convictions. Restrictions on cross-border marriages, oversight of labor and marriage brokers, and enhanced investigation of suspect cross-border marriages also increased. Cooperation was expanded with labor source-country governments to increase the number of pre-entry counseling seminars available for foreign spouses of citizens.

CLA operated 25 labor consultation service centers located around Taiwan. These centers provided counseling, legal aid, labor dispute resolution services, and toll-free multilingual hot lines. Thirteen overnight-stay shelters were available to foreign workers in need. Twelve shelters were operated by NGOs, two of which were wholly supported by funding from the Taipei and Kaohsiung city authorities. One shelter was operated by the Indonesian foreign representative office.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities and sets minimum fines for violations.

The law stipulates that the authorities must provide services and programs to the disabled population. Free universal medical care was provided to persons with disabilities. NGOs continued to note that more public nursing homes were needed and current programs, such as home care services, needed to be expanded to meet the growing needs of the disabled population, including the growing numbers of elderly persons.

The law requires all private enterprises with more than 100 employees to hire at least one person with disabilities per 100 workers. For all public entities (including offices, schools, and enterprises) with 50 or more employees, employees with disabilities must comprise at least 2 percent of the total workforce. For each unmet quota position, both public and private organizations are required to pay into the Disabled Welfare Fund an amount equal to one basic monthly salary or approximately \$535 (NT\$17,280). As of September persons with disabilities constituted approximately 2 percent of the public sector workforce.

For those with occupational injuries the law provides monetary assistance for up to five years, plus additional support through other programs. NGOs maintained that the authorities needed to extend the current five-year limit and liberalize the qualifications for assistance.

By law, new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. Violations resulted in fines of \$1,900 to \$9,300 (NT\$60,000 to NT\$300,000).

During the year, activists petitioned the authorities to preserve the Lo Sheng leprosy sanatorium and to allow its residents to continue living there. Most of the Lo Sheng site was to be demolished to make way for a rapid mass transit depot. In May the Public Construction Commission (PCC) decided to preserve half of the site's original buildings and to relocate the remaining residents to an adjoining high-rise long term care facility, which was not acceptable to the residents. Disability rights activists charged the PCC with putting development before the rights of the disabled. The authorities asserted that an appropriate balance had been reached between competing interests. In November the LY approved a \$28 million (NT\$900 million) fund to compensate residents for decades of confinement at the facility. However, the LY did not designate the Lo Sheng facility as a protected historical site, as activists had requested.

National/Racial/Ethnic Minorities

Since 1987 more than 399,000 marriages to foreigners have been registered, mostly to women from China, Vietnam, Indonesia, and Thailand. During 2007, 18 percent of all marriages were to foreign-born spouses, and an estimated 10 percent of all births were to foreign-born mothers.

Foreign spouses are initially issued visitors' visas, which usually must be renewed outside Taiwan. Foreign spouses cannot apply for citizenship until they have resided on Taiwan for three consecutive years. They are required to relinquish their citizenship of birth in order to apply. Citizenship is typically granted after the fourth consecutive year of residence; thus, for one year foreign spouses are technically stateless. Without citizenship, foreign spouses can be deported if their visas expire.

In one high-profile case, a married man from Taiwan named Chan used another man's identity to marry a Cambodian woman, who bore him twins. When the woman's visa expired, she was unable to renew it because her registered husband, named Yao, had died. She was deported, and Chan arranged to adopt the twins. The Cambodian woman then turned to a Taiwan legislator for help. According to a local NGO, the Taiwan authorities permitted the Cambodian spouse to return to Taiwan in July, where she resides with her two children and their father.

Foreign spouses were targets of discrimination both inside and outside the home. Most cross-border marriages were arranged by brokers, whose advertisements in Taiwan were frequently degrading to women. For fees ranging from \$7,800 to \$12,400 (NT\$250,000 to NT\$400,000), brokers typically flew clients to other Southeast Asian cities, where they could choose from a group of eligible women recruited by the broker. The marriage and necessary paperwork were usually completed within a week. Several reports suggested that this commercialized process likened foreign spouses to property and contributed to their mistreatment. An MOI report concluded that social and economic marginalization contributed to an abnormally high rate of domestic violence in cross-border marriages.

On November 30, the Immigration Law was amended to bar all forms of discrimination against foreign-born spouses and foreign migrant workers on the basis of nationality, race, skin color, social rank or place of birth. Those convicted of violating these provisions can face fines of up to \$930 (NT\$30,000). The amended Immigration Law permits a foreign-born spouse to apply for a restraining order if he or she has been the victim of domestic violence. A foreign-born spouse may now remain in Taiwan as long as necessary to handle divorce proceedings and to settle child-custody questions. After a divorce, a foreign-born spouse may remain in Taiwan to care for minor children less than 20 years of age. The amendment also banned for-profit cross-border marriage agencies, extended assembly and parade rights to immigrants, and liberalized financial proof requirements for foreign spouses seeking naturalization.

To assist the growing number of foreign-born spouses, the authorities took steps to help integrate them into society, including offering free Mandarin language and child-raising classes and counseling services at community outreach centers. The Legal Aid Foundation provided legal services to foreign spouses and operated a hot line to receive complaints. The MOI also operated its own hotline service with staff conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese. By the end of July, the service had received 319 calls from non-Chinese speakers.

PRC-born spouses must wait eight years to apply for Taiwan residency, whereas non-PRC spouses can apply after only four years. While non-PRC foreign spouses are permitted to work in Taiwan immediately upon arrival, PRC spouses must wait four years to obtain the right to work, barring special economic circumstances. Starting September 1, upon entering Taiwan for the first time, a spouse from the PRC must present a certified clean bill of health. After four years of residency in Taiwan, a PRC spouse can apply for a long-stay visa. After two more years of residency, this individual can apply for citizenship.

Indigenous People

There are 13 identified non-Chinese groups of indigenous peoples descended from Austronesian ancestors. Indigenous people accounted for approximately 2 percent of the population. The law protects the civil and political rights of these indigenous people. In 2005 the LY passed the Indigenous Peoples Basic Act ("Basic Act"), which stipulates that the authorities should provide resources to help indigenous people develop a system of self-governance, formulate policies to protect their basic rights, and promote the preservation and development of their language and culture. Indigenous rights advocates allege that schools in remote villages have been merged or closed in violation of the Basic Act, and that the budget for indigenous education fell short of Basic Act requirements. Indigenous leaders also called for greater participation in the administration of traditional tribal territories.

Other Societal Abuses and Discrimination

There were no laws prohibiting homosexual activities. According to homosexual rights activists, anti homosexual violence was rare, but societal discrimination against homosexuals and persons with HIV and AIDS was a problem.

Homosexual rights activists alleged that communities regularly used police pressure to shut down neighboring gay- and lesbian-friendly bars and bookstores. Homosexual rights activists and free speech advocates alleged that the police prejudicially applied obscenity laws to discourage the sale of gay pornography. Homosexual rights groups also complained that law enforcement agencies monitored Internet chat rooms and bulletin boards for sexually suggestive messages and prosecuted adult message-posters in violation of constitutional free speech guarantees.

In March the LY extended the financial, legal, and medical protections of the Family Violence Prevention and Service Act to gay and lesbian couples. The LY also passed legislation limiting artificial insemination and other infertility treatments to married couples. Doctors convicted of providing infertility treatments to unmarried persons face fines of up to \$46,000 (NT\$1.5 million). Homosexual rights activists alleged the restrictions unfairly discriminate against homosexuals, who are not permitted to marry under the law.

In May the LY passed legislation extending employment discrimination protection to homosexuals. Employers convicted of discriminating against jobseekers on the basis of birthplace, sexual orientation, or age face fines of up to \$46,000 (NT\$1.5 million).

In September a Kaohsiung court denied a lesbian couple's request to adopt a child, citing concerns that the child could develop gender-identity disorder and suffer ridicule from her peers.

On October 13, some 12,000 persons took part in the fifth annual homosexual rights rally, calling for society to respect the civil rights of Taiwan's estimated one million homosexuals.

The national health insurance system provides free screening and treatment, including antiretroviral therapy, for the estimated 14,000 HIV-infected nationals.

In May an AIDS charity reported that, in violation of the law, several social welfare departments and NGOs refused to provide care to babies born to HIV-positive mothers before the babies turned 18 months old, the age at which HIV tests are deemed reliable.

In June the LY amended the AIDS Prevention and Control Act (APCA) to allow foreign spouses infected with HIV to remain in Taiwan if they could show they had been infected by their spouse, or by medical treatment received while in Taiwan. Previously HIV infection could be grounds for summary deportation and denial of residency. The amended APCA, renamed the HIV Prevention and Patients' Rights Protection Act, also stipulates that HIV-infected citizens cannot be denied access to education, medical services, housing, or other necessities.

In August the High Court ruled that an HIV/AIDS hospice could remain in a Taipei apartment complex, despite neighbors' objections. The High Court ruling overturned a lower court decision ordering the hospice to relocate.

Section 6 Worker Rights

a. The Right of Association

The right to unionize is protected by law but is highly regulated. Workers other than teachers, civil servants, fire fighters, doctors and healthcare workers, domestic workers, and defense industry workers, are protected by the Labor Union Law (LUL). The LUL prohibits discrimination, dismissal, or other unfair treatment of workers because of union-related activities. Labor unions charged that during employee cutbacks labor union leaders were sometimes laid off first, or dismissed without reasonable cause. According to the Taiwan Confederation of Trade Unions (TCTU) and the Taiwan Labor Front, there is no specific penalty identified for the improper dismissal of a labor union leader.

Some public employees, including teachers, civil servants, and defense industry workers, had limited rights to form unions. Teachers and civil servants were allowed to form professional associations to negotiate with the authorities but were not allowed to strike. These restrictions led to a long-running dispute between the authorities and groups representing teachers and civil servants.

A number of laws and regulations limited the right of association. While labor unions may draw up their own rules and constitutions, they must submit them to county and city authorities as well as to the CLA for review. Labor unions may be rejected or dissolved if they do not meet CLA certification requirements or if their activities disturb public order.

Approximately 28 percent of the 10.8 million labor force belonged to one of the 4,534 registered labor unions. Many of them were also members of one of eight island-wide labor federations.

b. The Right to Organize and Bargain Collectively

The law gives workers the right to organize, bargain, and act collectively, although some positions are excepted from this right. The right to strike is provided by law, and workers exercised this right in practice. However, legal constraints made it difficult to strike, undermining the usefulness of collective bargaining. Workers may strike over issues of compensation and working schedules, but not living or working conditions. The law requires mediation of labor disputes when the authorities deem them to be sufficiently serious or to involve unfair practices. The law prohibits labor and management from disturbing the "working order" while mediation or arbitration is in progress. Critics contend the law has a chilling effect on the right to strike because it does not clearly state what conduct is prohibited. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses.

As of September there were 68 collective agreements in force; however, they covered only a small proportion of the labor force, mainly in large companies; 93 percent of

industrial labor unions had no collective agreements. In 2006 the CLA adjusted its totals to exclude obsolete collective bargaining agreements. No special labor laws or labor law exemptions apply to the export processing zones in Kaohsiung and Taichung.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor by adults and children however, there were reports that such practices occurred, including labor trafficking (see section 5). The authorities prosecuted numerous cases of forced child prostitution, and there was evidence of trafficking in persons.

d. Prohibition of Child Labor and Minimum Age for Employment

The Labor Standards Law (LSL) stipulates age 15, at which compulsory education ends, as the minimum age for employment. County and city labor bureaus effectively enforced minimum-age laws.

e. Acceptable Conditions of Work

The law provides standards for working conditions and health and safety precautions. As of November the LSL covered an estimated 5.7 million of the 7.8 million salaried workers. Those not covered included nursery workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, and domestic workers.

On July 1, the minimum monthly wage was increased from \$490 (NT\$15,840) to \$535 (NT\$17,280). The minimum hourly wage was also increased from \$2.26 (NT\$73) to \$3.22 (NT\$104). While sufficient in less expensive areas, the minimum wage did not assure a decent standard of living for a single income family in urban areas such as Taipei. Labor rights activists alleged any benefit to foreign workers from the increased minimum wage was largely offset by CLA's decision to allow employers to increase the maximum deduction for room and board by \$33 (NT\$1,000). A labor union reported receiving complaints against more than 100 different firms for their alleged failure to pay the increased minimum wage. The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher.

Legal working hours were 336 hours per eight-week period (for an average of 42 hours per workweek). While a five-day workweek has been mandated for the public sector, according to a CLA survey, more than half of private sector enterprises also reduced the normal workweek to five days.

The law provides standards for working conditions and health and safety precautions and gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. Although the CLA conducted publicity campaigns during the year to increase public awareness of the law and operated telephone hotlines to accept complaints of LSL violations, there was widespread criticism that the CLA did not effectively enforce workplace laws and regulations. Some 440 inspectors were responsible for inspecting approximately 300,000 enterprises covered by the Occupational Safety and Health Law. CLA inspectors conducted 197,699 inspections, an increase of 18 percent over 2006. Despite this increase, labor NGOs and academics alleged that the labor inspection rate was still far too low to serve as an effective deterrent against labor violations and unsafe working conditions.

The protections offered by the LSL do not extend to the 160,000 foreign workers employed as nursing caregivers or the 2,500 employed as housekeepers. Foreign workers were covered instead by the Employment Services Act, which does not guarantee a minimum wage or overtime pay, set limits on the workday or workweek, or provide for minimum breaks or vacation time. Foreign workers were not allowed to form their own unions or to assume union leadership positions in existing unions, making them vulnerable to exploitation. In addition foreign workers were often depicted by local media as dangerous or criminal. Although the minimum wage was not a legal obligation for these workers, most were hired through brokers who negotiated the minimum wage to ensure that the worker earned at least enough to cover the broker's fees.

In January 2006 CLA opened the Foreign Workers Service Center at Taiwan Taoyuan International Airport. The service center provided orientation services to arriving workers and dispute resolution services to those departing Taiwan. Service center telephones were located throughout the airport to facilitate the filing of complaints.

In November 2006 several new foreign labor regulations went into effect. Employers of foreign workers were required to notify CLA within 72 hours of a worker's arrival and to submit to CLA a "living management plan," specifying the employee's work hours, overtime provisions, living quarters, meal program, and free time. CLA inspectors were required to inspect the foreign worker's living and work environment within two months of receiving the plan. For companies employing more than 100 foreign workers, work and living facility inspections were required every three months. To prevent employers from deporting foreign workers without just cause, CLA required all contract terminations to be witnessed and approved by an appropriate city or county official. CLA officials reported that official oversight of contract terminations caused a drop in the number of foreign labor disputes.

According to CLA, an employer convicted of illegally changing the place or nature of a foreign worker's employment was subject to a fine ranging from \$1,000 to \$5,000 (NT\$30,000 to NT\$150,000). Anyone convicted of illegally hiring foreign workers or transferring a foreign worker to another employer was fined \$5,000 to \$25,000 (NT\$150,000 to NT\$750,000).

On January 1, NIA began operations; at that time the agency's director assumed responsibility for all immigration-related policies and procedures for foreign workers, foreign spouses, immigrant services, and repatriation of illegal immigrants.

On January 3, regulations requiring intensified inspection and oversight of foreign labor brokerage companies were implemented. In September an inspection program was initiated following the publication of CLA evaluation guidelines. Brokerage companies that fail to meet CLA standards for two consecutive years face closure.

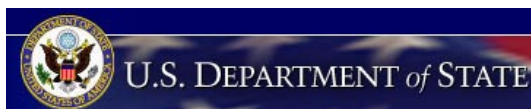
In June the LY amended the Employment Service Law to extend from six years to nine the maximum cumulative time a foreign worker may work in Taiwan.

In April 2006 CLA adopted a mandatory maximum fine policy to strengthen deterrence. However, county labor officials continued to assess fines at less than the available maximums. According to CLA, existing laws required labor authorities to annul an employer's permit to recruit or employ foreign workers if the employer failed to cure a violation within a specified time or if the employer committed a second violation.

In October 2006 CLA amended its regulations to exclude time spent at a shelter from a foreign worker's permitted work stay. After a foreign worker files a complaint against an employer, the worker is removed from the employer's premises and placed in a shelter. Foreign workers were forbidden from working until the labor dispute was resolved, which could take a year or more. Many foreign workers, still indebted to brokers, chose to flee the shelters and seek illegal work.

Foreign workers deemed to have worked illegally faced heavy fines, mandatory repatriation, and a permanent ban on reentering Taiwan, regardless of the circumstances.

 [BACK TO TOP](#)



Fiji

Country Reports on Human Rights Practices - 2007

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Fiji is a constitutional republic with a population of approximately 828,000. The constitution provides for a ceremonial president selected by the Great Council of Chiefs and an elected prime minister and parliament, but in December 2006 armed forces commander Commodore Voreqe Bainimarama overthrew the government of Prime Minister Laisenia Qarase of the Soqosoqo Duavata ni Lewenivanua (SDL) party in a bloodless coup d'etat, announced the establishment of an interim military government, and dissolved Parliament. On January 5, the interim military government was replaced by a nominally civilian interim government ("the interim government"), headed by Bainimarama as prime minister. Bainimarama and his Military Council controlled the security forces. There were numerous instances in which elements of the security forces acted independently.

During the year the interim government denied citizens the right to change their government peacefully. A state of emergency in effect for half of the year significantly restricted constitutional provisions for freedom of expression, movement, and assembly and subjected the right to privacy to the military's interpretation without recourse to the courts. The state of emergency was lifted on May 31 but was reimposed for 30 days on September 6 when Qarase returned to the capital from his home island. Under the interim government, the military and police arbitrarily detained and sometimes abused individuals, resulting in three deaths; conducted searches without warrants; engaged in intimidation of the media; and restricted the right to assemble peacefully. Other problems during the year included poor prison conditions; attacks against religious facilities, particularly Hindu temples; government corruption; deep divisions between indigenous Fijians (57 percent of the population) and Indo-Fijians (38 percent); violence and discrimination against women; and sexual exploitation of children.

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 were implicated in three unlawful killings. On the morning of January 5, a group of Republic of Fiji Military Forces (RFMF) personnel seized Nimilote Verebasaga from his home in Tailevu Province for unspecified reasons. That evening they delivered his beaten body to a hospital. A military spokesman claimed Verebasaga's injuries were sustained before he was detained; local villagers disputed that assertion. In November one RFMF soldier was charged with murder in the case.

In early February RFMF and police personnel detained and severely beat several young men from the Nadi area, including 19-year-old Sakiusa Rabaka, ostensibly for smoking marijuana. On February 24, Rabaka died as a result of injuries sustained during the assault. In October eight soldiers and one police officer were charged with murder in that case.

On June 4, plainclothes police officers took Tevita Malasebe into custody in Nasinu, just outside of Suva, for questioning on undisclosed matters. His mother was later called to a hospital to identify his badly bruised body. Seven police officers were charged with his murder.

All three cases were scheduled for trial in 2008. The interim government earlier had sought to send the suspects in the Verebasaga and Rabaka cases out of the country on UN peacekeeping details.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment

While the constitution prohibits such practices, there were numerous reports of abuses by security forces during the year.

On January 4, after a local bus driver at the Nausori checkpoint complained that nearby villagers had damaged his bus, soldiers detained six persons from the village for several hours and beat them. On November 3, soldiers and police reportedly beat businessman Ballu Khan and several associates during their arrest in suburban Suva for allegedly plotting to assassinate Bainimarama. Khan suffered skull fractures; he remained hospitalized at year's end. The police commissioner claimed that Khan was injured resisting arrest, a claim disputed by witnesses, and initially characterized Khan's injuries as minor.

The Fiji Human Rights Commission (FHRC), a constitutionally mandated statutory body, reported that through June it had received 18 formal complaints "relating to the December coup" that it deemed within its jurisdiction. Of these, 16 related to the use of cruel, inhuman, or degrading treatment. However, human rights nongovernmental organizations (NGOs) reported that numerous individuals who were victims of such treatment were unwilling to make formal reports to the FHRC. According to human rights observers, this unwillingness reflected a climate of intimidation and fears of reprisal. The incidence of mistreatment declined significantly in the second half of the year, following local and international criticism and the ending of the state of emergency. The FHRC reported that during the third quarter of 2007, it received one complaint related to the right to life and six complaints related to use of cruel, inhuman, or degrading treatment.

Prison and Detention Center Conditions

Prison conditions did not meet international standards. The national prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services. The system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. There were a large number of prison escapes during the year. The pretrial detention facility at Suva's prison remained closed due to its substandard condition.

In some cases pretrial detainees and convicted prisoners were held together. Courts released pretrial detainees, including some facing serious charges, on bail to minimize their exposure to an unhealthy and overcrowded prison environment.

Family members were routinely permitted to visit prisoners.

The interim government permitted prison visits by independent human rights observers. During the year the International Committee for the Red Cross (ICRC) visited official detention facilities and interviewed detainees. Coup opponents detained by the military for questioning and intimidation were typically held in cells at the main military barracks in Suva for short periods, generally overnight. No independent human rights observers were permitted to visit the military detention cells.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, but during the year military personnel detained numerous persons without warrants for interrogation and intimidation and, in some cases, brief incarceration. Although military personnel do not have arrest powers under the law, the military and the director of the FHRC cited the state of emergency proclamation and public order statutes as justification for the detentions.

Role of the Police and Security Apparatus

The Ministry of Home Affairs, headed by interim Prime Minister Bainimarama, oversees the Fiji Police Force, which is responsible for law enforcement and the maintenance of internal security. The RFMF is responsible for external security. The RFMF maintained that it has a broad constitutional responsibility for national security that also extends to domestic affairs; many constitutional scholars in the country rejected that assertion. In June the former deputy commander of the RFMF was appointed as police commissioner.

The police maintained a network of 31 stations and 54 police posts throughout the country. Policing of more remote and smaller islands was done through regularly scheduled visits. Military personnel were assigned to accompany police patrols and jointly man roadblocks, blurring the lines of authority between the two forces.

The police internal affairs unit is statutorily responsible for investigating complaints of police misconduct. The interim government created a Fiji Independent Commission Against Corruption with wide-ranging investigative powers. The commission undertook numerous investigations of public agencies and officials, including some members of the police force. Some officers were removed from the force. However, impunity and corruption remained problems.

In most cases the interim government took no action against military or police personnel alleged to have committed abuses against coup opponents and prodemocracy activists.

Arrest and Detention

By law police officers may arrest persons without a warrant for violations of the penal code. Police also arrest persons in response to warrants issued by magistrates and judges. Arrested persons must be brought before a court without "undue delay," normally interpreted to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds for their arrest. There was a well-functioning bail system.

The military detained and held incommunicado, in most cases briefly, a significant number of persons who publicly opposed its actions and policies. Reports indicated that the detentions were usually for several hours, typically overnight, and included threats and physical and verbal abuse. Those detained by the military were not taken before a court. The military eventually began transferring some detainees to the police for further investigation and possible charges.

Detainees, other than those detained briefly by the military, were allowed prompt access to counsel and family members. The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys.

The courts had a significant backlog of cases, and processing was slowed by, among other things, a shortage of prosecutors and judges, made worse by resignations in the wake of the coup. As a result some defendants faced lengthy pretrial detention.

Amnesty

In a widely criticized action on January 18, the president issued a proclamation granting to all persons who took part in or supported the removal of the Qarase government, including members of the disciplined forces, "full and unconditional immunity from all criminal or civil or legal or military disciplinary or professional proceedings or consequences" for their actions in this regard. The amnesty covered any such actions taken prior to or on December 5, 2006, and subsequently until January 5.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but during the year the interim government interfered with judicial independence in practice. In January Chief Justice Daniel Fatiaki was suspended from duty and barred from leaving the country, pending an investigation into unspecified allegations of misconduct. The naming of Justice Anthony Gates as acting chief justice to replace Fatiaki attracted widespread criticism amid allegations that the appointment process was not constitutional. In July the president of the Court of Appeal left the bench, declining to renew his contract. His home subsequently burned down under unexplained circumstances. In September six additional Court of Appeal judges jointly resigned, citing interference in the court's management by the acting chief justice. On November 20, the interim attorney general announced the appointment of a panel of three foreign judges to hear specific allegations against Fatiaki, primarily involving allegedly failing to declare income, falsifying tax returns, and acting outside judicial bounds during Fiji's 2000 coup. The matter was pending at year's end.

In October it was revealed that the police commissioner--the former deputy commander of the RFMF--had written a confidential letter to the Ministry of Justice accusing two High Court judges of bias against the military and requesting they not be permitted to preside over cases involving the military or its personnel. While the ministry indicated it would follow up, it was not known whether the letter had any effect on the assignment of cases to particular judges.

The country's judicial structure is patterned on the British system. The principal courts are the magistrates' courts, the High Court, the Court of Appeal, and the Supreme Court. In addition to its jurisdiction in civil and criminal cases, the High Court has special-interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Except for the Family Court, there are no special civilian courts. Military courts try members of the armed forces, and there is an internal police tribunal mechanism.

Trial Procedures

The constitution provides for the right to a fair trial. Defendants have the right to a public trial and to counsel, and the court system generally enforced these rights in practice. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. Most cases were heard in the magistrates' courts, but a case cannot be tried in a magistrate's court without the defendant's consent. Absent such consent, cases are tried in the High Court. Trials in the High Court provide for the presence of assessors, typically three, who are similar to jurors but only advise the presiding judge. Magistrates are not authorized to impose prison sentences longer than 10 years. Sentences in the magistrates' courts in most domestic and family law cases were relatively light. Defendants enjoy a presumption of innocence and can question witnesses, present evidence on their own behalf, and access government-held evidence relevant to their case. The right of appeal exists but often was hampered by delays in the process.

The military court system provides for the same basic rights as the civilian court system, although bail is granted less frequently in the military system.

Political Prisoners and Detainees

There were no reports of political prisoners or long-term political detainees. However, human rights activists, lawyers, journalists, and others were detained briefly and in some cases beaten for making statements against the coup or the interim government and its policies.

Civil Judicial Procedures and Remedies

The law provides for an independent and impartial judiciary in civil matters. There is access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. In the event of a human rights violation, an individual also can make a complaint to the FHRC, which could resolve complaints through conciliation without referring them to the courts. A number of those negatively affected by the coup and by policies of the interim government filed court cases alleging violations of the constitution and of human rights. Those cases were pending at year's end.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, but the interim government frequently ignored these prohibitions in practice. RFMF forces searched without warrants the homes and offices of a number of persons the military accused of corruption. Soldiers also entered private property without warrants to warn and threaten persons who spoke publicly against the coup.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, but the government did not fully respect these rights in practice.

The independent media were active and expressed a wide variety of views; however, the government warned media outlets against making "inciting comments," and most practiced some degree of self-censorship. The country's television news program production was owned and operated by Fiji One, one of two national noncable television stations. A trust operated on behalf of Fiji's provincial councils owned 51 percent of Fiji One; the remainder was privately held. The government owned the Fiji Broadcasting Corporation, which operated six radio stations, and also retained a shareholding of less than 20 percent in the *Daily Post* newspaper.

In February a newspaper photographer on assignment at a church in Suva was assaulted by soldiers in front of a large group of witnesses. He was taken to a military camp and detained for approximately one hour. In August RFMF personnel detained and questioned another newspaper reporter.

In August the FHRC's director hired a foreign NGO official with minimal media experience to undertake an assessment of the country's media. The study focused in particular on media independence and ownership. The major private media outlets and most journalists refused to cooperate with the assessment, criticizing the study as reflecting a progovernment bias and intended to intimidate the media. The draft report made a number of controversial proposals, including not renewing existing work permits for foreign media workers, a 7 percent levy on the media to fund a watchdog and media training body, and the adoption of new sedition legislation covering the media. At year's end the report had not yet been publicly released in final form.

The Media Council, a voluntary private watchdog group of media and academic figures, receives and seeks to resolve complaints of bias and malfeasance within the media. In March the council issued a statement condemning RFMF intimidation of the media.

Legislation pertaining to the press is contained in the Newspaper Registration Act and Press Correction Act. Under these acts all newspapers must register with the government before they can publish. The acts give the minister of information sole discretionary power to order a newspaper to publish a "correcting statement" if, in the minister's view, a false or distorted article was published. A newspaper refusing to publish the minister's correction can be sued in court and, if found guilty, fined. Individuals in such cases can be fined, imprisoned for six months, or both. These acts authorize the government to arrest any person who publishes "malicious" material. This would include anything the government considered false, likely to create or foster public alarm, or result in "detriment" to the public. However, this authority has never been used.

The 1992 Television Decree permits the government to influence programming content. The government did not attempt to use the programming authority during the year.

Internet Freedom

There were no government restrictions on general public access to the Internet. However, the military attempted to censor or shut down a number of antigovernment blogs that appeared after the coup, and the Public Service Commission warned civil servants against accessing or taking part in antigovernment Web sites. The military extensively monitored Internet chat rooms on these Web sites. In May the RFMF announced that it was following three individuals alleged to be involved with antigovernment blogs. Also in May, a businessman accused by the military of involvement with such a blog was detained by RFMF personnel at an army camp, where he was verbally and physically abused. Several other individuals suspected of maintaining blogs or posting on blogs were threatened or intimidated. Two senior civil servants accused of contributing to a blog were suspended from duty and subjected to disciplinary action. At least two persons were arrested for allegedly authoring or forwarding e-mail messages critical of the interim government.

The Internet was widely available and used in and around urban centers, and the majority of the population lived in areas with Internet coverage. However, low-income persons generally could not afford individual service, and other public access was very limited. Access outside urban areas was minimal or nonexistent.

Academic Freedom and Cultural Events

Academic freedom was generally respected; however, government work-permit stipulations prohibit foreigners from participating in domestic politics. University of the South Pacific contract regulations effectively restrict most university employees from running for or holding public office or holding an official position with any political party. RFMF agents reportedly infiltrated the university campus to monitor any political activity. The RFMF also threatened to terminate scholarships from the Fijian Affairs Board, a government-funded statutory body, for university students who contributed to antigovernment blogs.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly, but under the state of emergency regulations the interim government restricted this right. Although some civic organizations were granted permits to assemble, permits for all political demonstrations and marches were denied, as was a permit for the annual meeting of the National Federation Party. In March police broke up the annual general meeting of the National Union of Public Workers, citing unspecified public order issues. In July police broke up a peaceful picketing action by striking nurses.

Freedom of Association

The constitution provides for freedom of association. During the year the interim government did not restrict persons from joining NGOs, professional associations, or other private organizations, but it targeted for threats and harassment prominent members of the political party of the deposed prime minister and members of NGOs who criticized the coup.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. Some municipal restrictions on opening hours for businesses during Christmas and Easter were imposed on all communities, not just those that were predominantly Christian.

Societal Abuses and Discrimination

Racial polarization was reflected in religious differences, which were largely along ethnic lines; this contributed to political problems. Most ethnic Fijians were Christians, and most Indo-Fijians were Hindu, with a sizable minority of Muslims. The dominant Methodist Church has closely allied itself with the interests of the pro-indigenous Fijian movement.

Break-ins, vandalism, and arson directed at houses of worship, predominantly Hindu temples, were common. The attacks were broadly viewed as reflections of intercommunal tensions, although there was often evidence that theft was a contributing factor. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but the interim government frequently restricted or denied these rights in practice. Under the emergency regulations, the RFMF and later the police maintained checkpoints in the Suva, Nadi, and Lautoka areas, where some persons were stopped, questioned, and occasionally detained. The checkpoints were largely discontinued after the state of emergency ended in May. The interim government drew up a list of persons banned from leaving the country, including the suspended chief justice. Names on the list were not made public; travelers discovered their inclusion when they were turned back by airport immigration authorities.

The law prohibits forced exile, but until September the interim government effectively prohibited ousted prime minister Qarase from leaving his isolated home island to return to the capital, Suva.

Protection of Refugees

The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the country's laws do not specifically provide for the granting of refugee or asylum status in accordance with the convention and protocol. The government handles applications for refugee status or asylum on an ad hoc basis. There were two applications for refugee status or asylum during the year, which remained pending at year's end. The government does not have an established procedure for providing protection against refoulement, the forced return of persons to a country where there is reason to believe they feared persecution. The government provided nominal cooperation 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

Although the constitution provides citizens the right to change their government peacefully, the country was ruled by a military-backed interim government following the military overthrow of the popularly elected government in December 2006.

Elections and Political Participation

The most recent elections, held in May 2006, were judged generally free and fair. Party politics was largely race based, although this did not limit participation in the political process. The governing SDL party was primarily ethnic Fijian, and the Fiji Labor Party (FLP), the second largest party, was primarily Indo-Fijian, although both parties had membership across racial lines.

In January, one month after the military coup, a military-led, nominally civilian government was established by coup leader Commodore Bainimarama, with himself as its prime minister. Ratu Josefa Iloilo, who had been temporarily replaced as president by Bainimarama after the coup, was reinstalled as president. Bainimarama declared the May 2006 elections fraudulent and said no further elections would be held until the interim government had carried out an extensive "clean-up" of government.

An assessment of the 2006 elections commissioned by the director of the FHRC drew light participation, mostly from losing parties and candidates. The FHRC released its report in September. Human rights activists rejected the exercise as an attempt to justify the coup. The review largely reiterated previous criticism by election observers at the time, noting in particular flaws in the voter registration process that resulted in some hundreds of voters being unable to cast their votes.

In January the Pacific Islands Forum convoked a four-member "Eminent Persons Group" to investigate the coup. The group's report called for elections within 18 months to two years. Bainimarama subsequently stated a willingness to hold elections in March 2009, although his rhetoric continued to create uncertainty about the firmness of his commitment to that date.

In April the interim government suspended the Great Council of Chiefs after the council declined to appoint the interim government's choice as vice president. That position remained vacant at year's end.

There were two women in the 17-member interim government cabinet. Women played important roles in the traditional system of chiefs and could be chiefs in their own right.

There were four Indo-Fijian ministers in the interim government cabinet and one other minority minister. Indo-Fijians, who accounted for 38 percent of the population, continued to be underrepresented at senior levels of the civil service and greatly so in the military. Indo-Fijians comprised approximately 35 percent of the civil service overall.

The political primacy of indigenous Fijians is to some extent enshrined in the constitution, which mandates that 14 of Parliament's 32 senators be appointed by the indigenous Fijian Great Council of Chiefs, a hereditary body, and one by the Rotuma Island Council. The remainder are appointed by the government and opposition. This arrangement essentially ensured indigenous Fijians effective control in the Senate. Under the 1997 constitution, the prime minister and the president may be of any race or ethnicity. The constitution establishes a 71-member lower house with 25 seats open to any ethnicity and 46 seats allocated to the different ethnic communities. Of the 46 communal seats, 23 are allotted to indigenous Fijians, 19 to Indo-Fijians, three to "general voters" (for the most part mixed-race, Caucasian, and East Asian voters), and one to Rotumans (an ethnically distinct Polynesian group). These allotments were generally proportional to the ethnic composition of the country's population in 1996, but the constitution does not provide for future changes in the allotments to reflect changes in the composition of the population.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, corruption, including within the civil service, has been a significant problem for post-independence governments, and officials frequently engaged in corrupt practices with impunity. Despite measures by the interim government during the year to combat corruption within the bureaucracy, systemic corruption continued. In the absence of parliamentary oversight and other checks and balances, much government decision making was not transparent. The media raised numerous allegations of nonaccountability, abuse of office, fraud, nepotism, misuse of public property, financial mismanagement, failure to complete statutory audits, and conflicts of interest regarding officials and ministries during the year. In its annual report, which dealt chiefly with practices prior to the coup, the auditor general's office highlighted numerous instances of corrupt practices in government offices and ministries.

Citing what it characterized as a culture of corruption, poor governance, and inefficiency, the interim government summarily dismissed a large number of senior career bureaucrats and office holders linked to the government of ousted prime minister Qarase. The interim government also established an anticorruption commission by decree, with extensive powers to investigate and prosecute corrupt practices. Although several cases of malfeasance were brought to light, by year's end the commission had not uncovered any new cases of large-scale government corruption. Hastily created, the commission itself was widely criticized by the media, the legal community, and the public for a lack of accountability and transparency in its operations.

Under the interim government, many military personnel were appointed to positions within government ministries, the diplomatic corps, and other agencies, ostensibly to improve the inefficient bureaucracy.

Public officials are not subject to financial disclosure laws.

Although the 1997 constitution instructs Parliament to enact a freedom of information law as soon as practicable, no such law has been enacted. The interim government was frequently unresponsive to public requests for government information.

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

Under the interim government, the operations of domestic and international human rights groups were closely scrutinized. Members of the government frequently singled out individual NGO officials for criticism and harassment. Accusations by Bainimarama that NGOs were only doing the bidding of foreign donors, primarily to garner funding, engendered a climate of uncertainty within the NGO community, and most NGOs practiced varying degrees of self-censorship. Government officials were only cooperative and responsive to the views of NGOs that avoided criticizing the coup and the interim government.

There were several NGOs that concentrated on a variety of local human rights causes, such as the Regional Rights Resource Team, the Pacific Center for Public Integrity, the Citizens' Constitutional Forum, the Fiji Women's Rights Movement, and the Fiji Women's Crisis Center. A number of UN organizations concerned with human rights had regional offices in the country and sought to work with the government on various human rights issues. The ICRC continued to operate in the country. The interim government refused to permit a requested visit by the UN Rapporteur on the Independence of Judges and Lawyers.

The interim government directed all those claiming human rights violations to report them to the FHRC. The FHRC received and investigated reports of human rights violations and requests for assistance, some involving alleged abuses by the military, the police, and prison officials. During the year the FHRC director repeatedly failed to publicly object to significant allegations of human rights abuses by the military and police, including three incidents that resulted in the deaths of uncharged detainees. The FHRC's sole remaining pre-coup commissioner strongly criticized the director's statements in support of the coup and her failure to take action in support of persons abused by the security forces, and called for the director to resign. In January the director published a lengthy analysis of the coup that was widely criticized by legal and human rights figures as an attempt to justify the takeover. In a follow-up publication in August, she argued that the overthrow of the Qarase government did not constitute a coup. In July the FHRC director resigned her position when the interim government named her to be the new national ombudsman. As ombudsman, she is a human rights commissioner and chairs the FHRC.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, place of origin, ethnicity, sexual orientation, color, primary language, economic status, age, or disability. The government generally enforced these provisions effectively, although there were problems in some areas.

The constitution also cites the "paramountcy" of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens. A compact included in the constitution specifically provides for affirmative action and "social justice" programs to "secure effective equality" for ethnic Fijians and Rotumans, "as well as for other communities." The compact chiefly benefited the indigenous Fijian majority. The interim government publicly stated its opposition to such policies, which it characterized as racist, and called for the elimination of discriminatory laws and practices that favored one race over another; however, as of year's end, they remained in place.

Women

Rape, domestic abuse, incest, and indecent assault were significant problems. The penal code provides for a maximum punishment of life imprisonment for rape; however, most rapes were prosecuted in the magistrates' courts, which have a sentencing limit of 10 years. There were inconsistencies in the sentences imposed by different magistrates, generally ranging from one to six years' imprisonment. The Fiji Women's Rights Movement and the Fiji Women's Crisis Center pressed for more consistent and severe punishments for rape. The Court of Appeal has ruled that 10 years is the minimum appropriate sentence in child rape cases. Women's activists continued to press for the formal criminalization of spousal rape, which is not a specific offense; however, husbands have been convicted of raping their wives.

Although there is no specific law against domestic violence, it can be prosecuted as assault. The police claimed to practice a "no-drop" policy, under which they pursued investigations of domestic violence cases even if a victim later withdrew her accusation. However, women's organizations reported that although the police generally were more responsive to domestic violence cases than in the past, they were not always consistent. The courts dismissed some cases of domestic abuse and incest or gave the perpetrators light sentences. Incest was widely believed to be underreported. Traditional practices of reconciliation between aggrieved parties were sometimes taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest. An active women's rights movement sought to raise public awareness about domestic violence.

Four women's crisis centers funded by foreign governments operated in the country. The centers offered counseling and assistance to women in cases of domestic violence, rape, and other problems, such as child support.

Prostitution is illegal, but it occurred, particularly in cities. Sex tourism is prohibited by law but reportedly occurred, particularly in tourist centers such as Nadi and Savusavu, including cases involving children. Taxi drivers, hoteliers, bar workers, and others reportedly acted as middlemen, facilitating the commercial sexual exploitation of children.

The law does not specifically prohibit sexual harassment, but laws against "indecent assaults on females" prohibit offending the modesty of women and could be used to prosecute sexual harassment cases.

Women have full rights of property ownership and inheritance but often were excluded from the decision-making process on disposition of communal land. Many women were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women generally were paid less than men for similar work. According to the Asian Development Bank, approximately 30 percent of the economically active female population was engaged in the formal economy, and of these a large proportion worked in semisubsistence employment or self-employment.

Children

The government devoted approximately 25 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15, but the inability of some families to pay for uniforms, school fees, and bus fares limited attendance for some children. There was no significant difference between the school enrollment rates for boys and girls. According to a UN Children's Fund report (based on 2000-2005 data), the net primary school enrollment rate was 97 percent for boys and 96 percent for girls.

The government provided free medical care for children at public health centers and hospitals, including immunizations in primary schools, and boys and girls had equal access.

Corporal punishment was common both in homes and in schools, despite a Ministry of Education policy forbidding it in the classroom. Increasing urbanization, overcrowding, and the breakdown of traditional community and extended family-based structures led to an increasing incidence of child abuse and appeared to be factors that increased a child's chance of being exploited for commercial sex. Child prostitution was reported among homeless and jobless urban youth.

Under the penal code, commercial sexual exploitation of children is a misdemeanor, punishable by sentences of up to two years' imprisonment. Children's rights advocates criticized this as inadequate and called for more severe criminal sanctions.

Increasing urbanization led to more children working as casual laborers, often with no safeguards against abuse or injury.

Trafficking in Persons

The law prohibits trafficking in persons, with penalties of up to 20 years' imprisonment and fines up to \$482,000 (F\$750,000) for convicted traffickers. Several citizens of China who entered Fiji on student visas and who were arrested for prostitution may have been trafficked. However, no further investigations were conducted before the women were deported to their country of origin. There were some reports of commercial sexual exploitation of children within the country during the year.

The government did not sponsor or provide assistance to any programs specifically designed to combat or prevent trafficking in persons.

Persons with Disabilities

All persons are considered equal under the law, including persons with disabilities. Discrimination against persons with disabilities in employment, education, provision of housing and land, or provision of other state services is illegal. In addition the law provides for the right of access to places and modes of transport generally open to the public and obliges proprietors of such places and services to "facilitate reasonable access for disabled persons to the extent provided by law." Public health regulations provide penalties for noncompliance; however, there was very little enabling legislation on accessibility for persons with disabilities, and there was little or no enforcement of laws protecting persons with disabilities. Building regulations issued in 2004 require new public buildings to be accessible to persons with disabilities, but only a few existing buildings met this requirement. There were only a small number of disabled-accessible vehicles in the country. There were a number of community organizations to assist those with disabilities, particularly children.

Most persons with mental disabilities were separated from society and typically were supported at home by their families. Institutionalization of persons with severe mental disabilities was in a single overcrowded, underfunded public facility in Suva. There were a number of special schools for persons with physical, cognitive, and sensory disabilities; however, costs and location limited access. Opportunities for a secondary school education for those with disabilities were very limited.

The government-funded Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several NGOs also promoted attention to the needs of persons with various disabilities.

National/Racial/Ethnic Minorities

Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. The constitution notes that "the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population," but it also specifies the "paramountcy of Fijian interests" as a protective principle.

Prior to the coup, most postindependence governments pursued a policy of political predominance for ethnic Fijians. Land tenure remained a highly sensitive and politicized issue. Ethnic Fijians communally held approximately 85 percent of all land, the government held approximately 4 percent, and the remainder was freehold land, which private individuals or companies may hold.

Ethnic Fijians' traditional beliefs, cultural values, and self-identity are closely linked to the land. Most cash-crop farmers were Indo-Fijians, the majority of whom are descendants of indentured laborers who came to the country during the British colonial era. Virtually all Indo-Fijian farmers were obliged to lease land from ethnic Fijian landowners. Many Indo-Fijians believed that their very limited ability to own land and their consequent dependency on leased land from indigenous Fijians constituted de facto discrimination against them. A pattern of refusals by ethnic Fijian landowners to renew expiring leases continued to result in evictions of Indo-Fijians from their farms and their displacement to squatter settlements. This situation contributed significantly to communal tensions. Many indigenous Fijian landowners in turn believed that the rental formulas prescribed in the national land tenure legislation discriminated against them as the resource owners.

Other Societal Abuses and Discrimination

The constitution prohibits discrimination on the basis of sexual orientation. The preexisting penal code criminalizes homosexual acts between males, but the judiciary has held these provisions to be unconstitutional. There was some societal discrimination against homosexuals and persons with HIV/AIDS, although there was no systemic discrimination. There were no known cases of violence directed at homosexuals or person with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

The constitution and law protect the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, but the authorities did not always respect all of these rights in practice. In March, citing state of emergency regulations, police stopped the annual meeting of the National Union of Public Workers and briefly detained the union's general secretary and lawyer for questioning.

An estimated 36 percent of the work force was unionized. All unions must register with, but are not controlled by, the government. While some unions were ethnically based, most were not, and both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

The Employment Act makes it an offense for an employer to victimize any worker or make it a condition of employment for a worker not to belong to a union. Unions reported some cases of victimization of workers who expressed a desire to join a union, but the Ministry of Labor reported that it was unable to verify these cases, and no

employers were prosecuted.

b. The Right to Organize and Bargain Collectively

Workers have the right to organize and bargain collectively. However, wage negotiations generally were conducted at the level of individual companies rather than industry wide. Employers are required to recognize a union if more than half of the employees in a workplace have signed membership cards; no ballots are held to determine representation. The government has the power to order recalcitrant employers to recognize unions, and it has done so in the past. Traditional key sectors of the economy, including sugar and tourism, were heavily unionized. Although the law allows unionization, union organizers' jobs were not protected, resulting in low unionization in some sectors.

Strikes are legal, except in connection with union recognition disputes. Trade unions can conduct secret strike ballots without government supervision. To carry out a legal strike, organizers must give an employer 28 days' notification. The Ministry of Labor also must be notified and receive a list of all striking employees and the starting date and location of the strike. This requirement is intended to give organizers, unions, employers, and the ministry time to resolve the dispute prior to a strike. There were strikes during the year, including by teachers, nurses, and other civil servants demanding that the interim government restore a pay increase granted by the Qarase government in 2006 but dropped by the interim government following the coup. The interim government accused the strikers of harboring political agendas in opposition to government policies. Permits for strike-related demonstrations were denied, and police broke up one picketing action. The interim health minister actively encouraged retired nurses to fill in for striking nurses. Although most labor disputes, including those in which strike action is deemed illegal, were typically settled by referral to a permanent arbitrator, the government refused to refer the protracted nurses' strike to arbitration. The nurses eventually returned to work but did not receive any concessions from the government and lost their pay for the period they were on strike. Their union sued the interim minister for labor for not referring the matter to arbitration, and in December a court ruled the government had erred by refusing to refer the dispute to an arbitrator.

Union organizers were occasionally vulnerable to dismissal or to other interference by employers, particularly when operating on company premises, although in theory they have legal protection.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. With the decline of the garment industry in the country, the number of workers employed in the EPZs also declined significantly. The Fiji Trade Union Congress reported that it was able to negotiate collective bargaining agreements with some employers in the EPZs but that not all employers were cooperative.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children, but there were reports of commercial sexual exploitation of children.

d. Prohibition of Child Labor and Minimum Age for Employment

Inadequate enforcement of existing child labor regulations failed to fully protect children from workplace exploitation. Under the law children under age 12 may not be employed except in a family-owned business or agricultural enterprise. Children between ages 12 and 15 may be employed on a daily wage basis in nonindustrial work not involving machinery, provided they return to parents or guardian every night. Persons between the ages of 15 and 17 may be employed in certain occupations not involving heavy machinery; however, they must be given specified hours and rest breaks. The Ministry of Labor deploys 42 inspectors nationwide to enforce compliance with labor laws, including those covering child labor. However, there was no comprehensive government policy to eliminate the worst forms of child labor. During the year migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and prostitutes. There were reports of commercial exploitation of children during the year.

e. Acceptable Conditions of Work

There was no single, national minimum wage, although the Ministry of Labor set minimum wages for certain sectors. Entry-level wages in unregulated sectors, especially service industries, provided a sparse and often only marginally adequate standard of living for a worker and family. There was no single national limitation on maximum working hours for adults; however, there were restrictions and overtime provisions in certain sectors. Workers in some industries, notably transportation and shipping, worked excessive hours.

There are workplace safety regulations, a worker's compensation act, and an accident compensation plan. Safety standards applied equally to citizens and foreign workers; however, government enforcement suffered from a lack of trained personnel and delays in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces, but many work areas did not meet standards and not all were monitored by the Ministry of Labor for compliance. The law accords employees the right to remove themselves from a hazardous work site without jeopardizing their employment, but most feared the loss of their jobs if they did so.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Indonesia

Country Reports on Human Rights Practices - 2007

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Indonesia is a multiparty democracy with a population of approximately 245 million. Susilo Bambang Yudhoyono became the country's first directly elected president in free and fair elections in 2004. The civilian authorities generally maintained effective control of the security forces, although the fact that the Indonesian Armed Forces (TNI) continued to be partly self-financed weakened this control.

The government generally respected the human rights of its citizens; however, weak legal institutions, limited resources, and insufficient political will prevented accountability for serious abuses that occurred in the past. Problems during the year included: killings by security forces; vigilantism; harsh prison conditions; impunity for prison authorities; arbitrary detentions; corruption in the judicial system; some limitations on free speech and on peaceful assembly; interference with freedom of religion, sometimes with the complicity of local officials; intimidation of human rights groups by security forces; serious instances of violence and sexual abuse against women and children; trafficking in persons; forced labor; and failure to enforce labor standards and worker rights.

During the year the government's Reformasi consolidated democratic gains with positive human rights developments in the following areas: the government prosecuted the 2004 murder of human rights activist Munir Said Thalib with increased transparency; the president signed a strong antitrafficking bill; and the police demonstrated marked improvements in human rights, particularly in handling a number of large-scale demonstrations without using lethal force.

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, there were reports of killings by security force personnel. The criminal code does not specifically criminalize extrajudicial killings.

On May 20, Rusman Robert was found dead in Solok Regency, West Sumatra, with bruises on his face and body and a broken arm. Witnesses testified that before he disappeared, he argued with the Solok military commander, Lieutenant Colonel Untung Sunanto. The military police investigated the case and arrested seven members of the Solok military command, including Untung. A military tribunal sentenced six of the men to between 18 months and five years in prison and dismissed them from the military. Because of his rank, Lieutenant Colonel Untung Sunanto was to be tried by a separate military tribunal. At year's end he was in custody awaiting trial.

On May 30, in a clash between villagers and marines in Alastlogo village, Pasuruan, East Java, marines shot and killed at least four persons and injured eight others. The incident occurred when villagers protested construction of a navy facility and demanded that the navy postpone development until after the villagers harvested their crop. Immediately following this incident, the commander of the marine facility, Major Husni Sukarwo, was relieved of his command. The human rights nongovernmental organization (NGO) KontraS alleged that several of the victims were deliberately targeted. In July the National Human Rights Commission (Komnas HAM) concluded that the Alastlogo incident was not a gross human rights violation and a trial therefore would be in military court instead of a human rights court. On September 19, 13 marines detained as suspects in this case were released from detention.

On September 22 and 23, clashes between police and TNI personnel in Ternate, North Maluku, left two police officers dead, two injured, and two TNI personnel also injured. The national police chief said that "if anyone in either institution is found to have violated the law, they will be handled internally by their respective institution."

In the May 2006 killing by police of two protesters in Wamena, Papua, the provincial police stated that officers "acted in accordance with police procedures" and if they had not fired upon the protesters they would have been in grave danger.

The trial of three police officers (Anthoni Taihutu, Albert Wattimena, and Raders Ralahalu) and one civilian (Robert Latuheru) for the August 2006 beating death of Deny Lewol continued in Bentang, Ambon City, Maluku. Prosecutors recommended a five-year prison sentence for Wattimena and Taihutu.

There were no developments in the following 2006 cases: the January shooting in Paniai, Papua, which killed one and injured two others; the March death of a man on a motorcycle in Peudawa, East Aceh; and the July alleged killing in Keude Paya Bakong, North Aceh.

There were no known developments regarding the 44 civilians and 37 Aceh Liberation Movement (GAM) members whom the Human Rights NGO Coalition in Aceh reported were killed prior to the signing of the Helsinki Memorandum of Understanding (MOU) that led to an end of hostilities in Aceh in August 2005. The government announced no significant progress and none was expected in the investigations into the following 2005 cases: the incident in Bireuen, Aceh, during which six members of the TNI special forces (Kopassus) reportedly killed two men and injured another; the incident in Nabire, Papua, in which TNI personnel allegedly beat local Papuan residents leaving seven seriously injured and one dead; the incident in Mulia City, the capital of Puncak Jaya Regency, during which the police shot and killed Tolino Iban Giri and arrested eight other persons; and the report that TNI and Police Mobile Brigade (Brimob) personnel killed three suspected rebels after capturing them during a joint operation in Serba Jaya village in Aceh Jaya District.

Law enforcement authorities reopened the investigation into the 2004 killing of human rights activist Munir Said Thalib during the year, presenting new evidence and witnesses. Based on this evidence, the Supreme Court reviewed its 2006 acquittal of suspect Pollycarpus Budihari Priyanto. The testimony and trial openly touched on the alleged involvement of senior officials of the National Intelligence Agency. On October 9, in connection with the murder, prosecutors filed charges against a former Garuda Airlines director and the director's former secretary.

There were no developments regarding the 1999 killing of four demonstrators at Jakarta's Semanggi intersection or the 1998 killing of four students at Trisakti University and nine demonstrators at Semanggi intersection.

In 2005 the governments of Indonesia and Timor-Leste established the Commission on Truth and Friendship (CTF) to address human rights violations committed in Timor-Leste in 1999. The presidents of Indonesia and Timor-Leste extended the mandate of the CTF to February 2008. The CTF prioritized 14 cases to be addressed. During the year the CTF held five public hearings and two closed hearings, featuring testimony of witnesses, victims, and other actors involved in the events of 1999.

There were no known developments and none were expected with regards to pre-Helsinki MOU killings in 2005 of which GAM was accused.

On July 27, the Supreme Court denied the appeals of the persons convicted for the 2002 killings of two foreign citizens and an Indonesian near Timika, Papua. On August 30, the Supreme Court denied the appeal of Amrozi, in his conviction in the 2002 Bali bombing. On September 24, appeals of Ali Ghufron and Imam Samudra, the other two men convicted of the bombings, were also denied. In February the Supreme Court denied the appeal of Abdullah Sunata (alias Arman) in a case related to the 2003 Marriott Hotel bombing.

The authorities continued to make progress in investigating the 2004–6 cases of sectarian violence in Central Sulawesi and Maluku. In January, 17 persons, including two police officers, were killed in four police raid-related clashes in the Gebangrejo subdistrict of Poso, Central Sulawesi. The police were searching for persons wanted in connection with terrorist and other criminal activity, including alleged members of Laskar Mujahiddin. On January 11, a police officer was beaten to death when he was stopped by mourners attending the funeral of one of those killed in a police raid that day.

By year's end the government tried 13 suspects for the 2006 and 2004 killings of two clergy, the 2005 beheading of three Christian schoolgirls, and the 2005 bombings of markets in Tentena and Palu. Abdul Muis, accused in the October 2006 shooting of Reverend Irianto Kongkoll in Palu, Central Sulawesi, and in the December 2005 bombing of a market in Palu, was tried in the South Jakarta District Court. In December the court sentenced Muis to 18 years' imprisonment. Four others were sentenced to between 10 and 19 years' imprisonment for beheadings and bombings in 2005. On August 13, Basri was charged in four murder and terrorism cases in Poso from 2004-6. The South Jakarta District Court tried Ardin (alias Rojak), Ridwan, and Tugiran for terrorism acts in Poso committed in the same time period. On December 11, that court sentenced Basri to 19 years' imprisonment for the 2005 beheading of the three Christian schoolgirls and the 2004 killing of priest Susanti Tinulele, Ardin, Ridwan, and Tugiran to 14 years each. On March 21, Central Jakarta District Court sentenced Hasanuddin to 20 years in prison for masterminding the 2005 beheading of the three schoolgirls and two others accused in the beheadings to 14 years.

On July 26, 17 Christians accused of killing two Muslim men, Badaruddin and Wandu, in 2006 were sentenced by the South Jakarta District Court to from eight to 14 years in prison.

Maluku Province continued to enjoy reduced ethnic and religious tensions during the year, and no killings were reported. Sporadic bombings continued to take place.

The Ambon State Court tried Sulthon Qolbi (alias Asadullah or Arsyad) for acts of violence in 2005, such as the Lokki attack, the grenade explosion in Batu Merah village, and the bomb explosion in Mardika market. Sulthon confessed to these crimes. On October 4, Sulthon was sentenced to 15 years.

There were no known developments in the following 2006 cases: the September 2006 killing of a 50-year-old male in Tangkura Village of Poso Pesisir subdistrict and of another person killed by an explosion in Kawua, South Poso, and the October 2006 killing of a Christian woman riding public transportation through a predominantly Muslim area of Poso City.

b. Disappearance

The government reported little progress in accounting for persons who disappeared in previous years or in prosecuting those responsible for such disappearances. The criminal code does not specifically criminalize disappearance.

During 2005 according to the Human Rights NGO Coalition, 31 civilians and one GAM member were kidnapped in Aceh prior to the signing of the Helsinki MOU. Security forces were implicated in some of the disappearances.

In 2005 GAM members allegedly kidnapped four persons, including an eight-year-old child, and demanded a ransom. Their whereabouts remained unknown.

By year's end the government had taken no action regarding the findings of a September 2006 report to the Attorney General's Office (AGO) by a Komnas HAM ad hoc team on the 1998 abductions of between 12 and 14 prodemocracy activists. Despite refusals from military personnel to cooperate in the investigation, Komnas HAM concluded that all victims still missing were dead and identified suspects for an official investigation without publicly releasing their names. During 2006 the AGO took no action, stating that it could not prosecute these crimes unless the House of Representative (DPR) declared them gross human rights violations.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution states that every person shall have the right to be free from torture, inhuman, and degrading treatment. The law criminalizes the use of violence or force by officials to elicit a confession, punishable by up to four years in prison, but the criminal code does not specifically criminalize torture. In previous years law enforcement officials widely ignored, and were rarely tried, under this statute. The government made some efforts to hold members of the security forces responsible for acts of torture. During the year the UN Special Rapporteur on Torture, Manfred Nowak, reported evidence of torture in many police detention facilities in Java. Nowak reported torture was common in certain jails and used to obtain confessions, punish suspects, and seek information that incriminated others in criminal activity. Torture typically occurred soon after detention. There were reports that detainees were beaten with fists, sticks, cables, iron bars, and hammers. Some detainees reportedly were shot in the legs at close range, subjected to electric shock, burned, or had heavy implements placed on their feet.

On January 22 and 23, two gay men in Banda Raya, Aceh, were physically and verbally abused by their neighbors and then arbitrarily arrested, beaten, and sexually abused by police. Four police officers were suspended and administratively sanctioned for their abuse of the men. At year's end the case was still under investigation, but the authorities maintained they were unable to file charges because one of the victims had fled Aceh and the other refused to be questioned.

On May 1, police detained a labor leader for his actions leading a rally earlier that day. The next day, while in police custody and a few feet from police personnel, another inmate allegedly beat him. Subsequently, by his account, he was coerced into signing a confession by an interrogating officer who threatened that if he did not sign, the inmate(s) who had beaten him would "cripple" him.

During the year 47 persons were publicly caned in Aceh for offenses under the local Shari'a (Islamic law) such as gambling, consumption of alcohol, and being alone with members of the opposite sex who were not blood relatives. This was a decline from 2006, when at least 61 persons were caned for these offenses.

At year's end there were no known developments in the March 2006 case of Rosidi from Ra'ab, East Java, who was arrested for running an illegal lottery and allegedly beaten in jail by police. Probolinggo police arrested three officers accused of the beating, and they reportedly were administratively sanctioned. There was no publicly available information about the sanctions.

On April 3, fellow students beat to death Cliff Muntu, a student at the government's Institute for Public Administration, because he failed to hold the academy's flag in a proper fashion. The police arrested four suspects in the fatal beating and also Lexie M. Giroth, the dean of the school. On September 9, Giroth was sentenced to one year's imprisonment for attempting to cover up the crime. The four students were expelled, and on November 23, two were sentenced to three-year prison terms.

In March 2006 five senior cadets, in a hazing incident, beat, kicked, and subjected to electric shocks Hendra Saputra, a cadet at the Semarang Police Academy. Hendra suffered serious brain injuries. The authorities charged the five cadets with torturing Saputra. On April 26, the Semarang District Court found the five not guilty. At year's end the prosecution's appeal to the Supreme Court was pending.

There were instances in which police failed to respond to mob or vigilante violence. Mobs carried out vigilante justice, but reliable statistics on such actions were not available. Incidents of theft or perceived theft triggered many such incidents.

Prison and Detention Center Conditions

Conditions at the country's 397 prisons and detention centers were harsh. Overcrowding was widespread. In Java occupancy frequently was two or three times more than recommended capacity. Guards regularly extorted money from and mistreated inmates. There were widespread reports that the government did not supply sufficient food to inmates, and family members often brought food to supplement their relatives' diets. Family members reported that prison officials often sought bribes to allow relatives to visit inmates. Unruly detainees were held in solitary confinement for up to six days on a rice-and-water diet.

By law, children convicted of serious crimes should serve their sentences in juvenile prisons. However, according to a November statement by the UN Special Rapporteur on Torture, children were incarcerated with adults in both pretrial detention centers and in prisons. In theory prisons held those convicted by courts, while detention centers held those awaiting trial; however, in practice pretrial detainees at times were held with convicted prisoners.

There were no official restrictions on prison visits by human rights monitors, and prison officials granted varying degrees of access, including to the International Committee of the Red Cross and to the UN.

d. Arbitrary Arrest or Detention

The law contains provisions that protect against arbitrary arrest and detention but lacks adequate enforcement mechanisms, and some authorities routinely violated these provisions.

Role of the Police and Security Apparatus

The president appoints the national police chief, subject to DPR confirmation. The police chief reports to the president but is not a full member of the cabinet. The national police force has approximately 350,000 personnel deployed throughout the 33 provinces. The police maintain a centralized hierarchy; locally deployed forces formally report to their national headquarters, although during the year cooperation with local governments increased. The military is responsible for external defense but also has a residual obligation to support the police in their domestic security responsibilities. In Aceh the Shari'a police, a provincial body, is responsible for enforcing Shari'a law.

During the year international organizations such as the International Organization for Migration continued to note improvement in police professionalism and an increased emphasis on law enforcement ethics. In recent years internal police investigative reports showed decreased incidents of torture and misuse of firearms. All police training institution include a human rights component in their curricula. There was an increase in investigations into human rights violations and dismissals of police for misconduct. Overall, police professionalism increased, as did effectiveness at investigating human rights abuses. However, impunity and corruption remained problems in some areas. Police commonly extracted bribes ranging from minor payoffs in traffic cases to large bribes in criminal investigations. From January to October 2006, the Internal Investigation Division (Propam) reportedly investigated 5,486 police officers, including high-level officials, across the country, resulting in 240 dismissals. Other punishments varied from demotion to criminal prosecution.

According to the police inspector general during the year 16,929 police officers were "legally processed" for misconduct including violations of police regulations, criminality, or violations of ethical standards. On November 30, a military tribunal found 15 TNI personnel guilty for their involvement in illegal logging in East Kalimantan. The tribunal ordered the commander dishonorably discharged and sentenced him to 16 months in prison and the other 14 to one year's confinement.

In August the Maluku Propam arrested a police brigadier general in connection with an allegation that he had committed torture using electric shock. At year's end the investigation continued, and the general was in detention.

Arrest and Detention

The law provides prisoners with the right to notify their families promptly and specifies that warrants must be produced during an arrest. Exceptions are allowed if, for example, a suspect is caught in the act of committing a crime. The law allows investigators to issue warrants; however, at times authorities made arrests without warrants. A defendant may challenge the legality of his arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained; however, defendants rarely won pretrial hearings and almost never received compensation after being released without charge. Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention. The law limits periods of pretrial detention. Police are permitted an initial 20-day detention, which can be extended to 60 days by the prosecutors while the investigation is being completed; prosecutors may detain a suspect for a further 30 days during the prosecution phase, and may seek a 20-day extension from the courts. The district and high courts may detain a defendant up to 90 days during trial or appeal, while the Supreme Court may detain a defendant 110 days while considering an appeal. In addition the court may extend detention periods up to an additional 60 days at each level if a defendant faces a possible prison sentence of nine years or longer or if the individual is certified to be mentally or physically disturbed. During the year authorities generally respected these limits in practice. The antiterrorism law allows investigators to detain any person who, based on adequate preliminary evidence, is strongly suspected of committing or planning to commit any act of terrorism for up to four months before charges must be filed.

During his November visit, the UN Special Rapporteur on Torture found that in many instances the authorities did not grant bail, frequently prevented access to defense counsel during investigations, and limited or prevented access to legal assistance from voluntary legal defense organizations. Court officials sometimes accepted bribes in exchange for granting bail.

e. Denial of Fair Public Trial

The law provides for judicial independence. In practice the judiciary remained susceptible to influence from outside parties, including business interests, politicians, and the military. Low salaries continued to encourage acceptance of bribes, and judges were subject to pressure from government authorities, which appeared to influence the outcome of cases.

Under the Supreme Court are general, religious, military, and administrative courts. The Supreme Court normally considers only the lower courts' application of the law. Another avenue for appeal, judicial review, allows the Supreme Court to revisit cases that have already been decided (including by the Supreme Court itself), provided there is new evidence that was not available during earlier trials. Parallel to the Supreme Court is the Constitutional Court, which is empowered to review the constitutionality of laws, settle disputes between state institutions, dissolve political parties, resolve certain electoral disputes, and decide allegations of treason or corruption against the president or vice president. The Constitutional Court demonstrated significant independence and continued to overturn legislation that it found unconstitutional.

In August 2005 the president inaugurated the Judicial Commission with a mandate to propose candidates for appointment as justices to the Supreme Court and to monitor and ensure the integrity of judges. In an August 2006 verdict, the Constitutional Court stripped the Judicial Commission of an oversight role and concluded that the law establishing the commission did not clearly state what the body would monitor. Legal experts criticized the court's decision as counter to efforts to combat corruption, although some asserted that the decision was based on a separation of executive and judicial branches. The Judicial Commission's authority deteriorated further when, on September 26, the Corruption Eradication Commission (KPK) arrested Judicial Commission member Irawady Joenoes for allegedly accepting a bribe in a land procurement deal.

Widespread corruption throughout the legal system continued. Bribes and extortion influenced prosecution, conviction, and sentencing in civil and criminal cases. During the year the National Ombudsman Commission reported it received 218 complaints of judicial corruption involving judges, clerks, and lawyers. Key individuals in the justice system were accused of not only accepting bribes but of turning a blind eye to other government offices suspected of corruption. Legal aid organizations reported that cases often moved very slowly unless a bribe was paid. With the Judicial Commission stripped of its powers, responsibility for judicial supervision rests with the Supreme Court.

Most judges earned \$200 to \$256 (1.8 to 2.3 million rupiah) per month, while a judge with three decades' experience earned approximately \$660 (5.94 million rupiah) per month; Supreme Court justices earned between \$1,540 and \$2,640 (14 to 24 million rupiah) per month.

Trial Procedures

The law presumes that defendants are innocent until proven guilty. Defendants have the right to confront witnesses and call witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases, sworn affidavits may be introduced. However, the courts allowed forced confessions and limited the presentation of defense evidence. Defendants have the right to avoid self-incrimination. The law provides for the right of appeal. In each of the country's 755 courts, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and assessing punishment. Both the defense and prosecution can appeal.

The law gives defendants the right to an attorney from the time of arrest and at every stage of examination and requires that defendants in cases involving capital punishment or a prison sentence of 15 years or more be represented by counsel. In cases involving potential sentences of five years or more, the law requires that an attorney be appointed if the defendant is indigent and requests counsel. In theory indigent defendants may obtain private legal assistance, and NGO lawyer associations provided free legal representation to indigent defendants. In some cases procedural protections, including those against forced confessions, were inadequate to ensure a fair trial.

Apart from the handful of soldiers who were tried in human rights courts, hundreds of low-level and sometimes mid-level soldiers were tried in military courts, including for offenses that involved civilians or occurred when soldiers were not on duty. If a soldier was suspected of committing a crime, military police investigated and then passed their findings to military prosecutors, who decided whether to prepare a case. While administratively managed by the TNI, military prosecutors and judges were responsible to the AGO and the Supreme Court for the application of laws. The Supreme Court exercises administrative control over civil, military, and religious courts. A three-person panel of military judges heard trials, while the military high court and the military supreme court heard appeals. Some civilians criticized the short length of prison sentences imposed by military courts. TNI legal officials noted that all personnel sentenced to terms of three months or longer, regardless of their record or length of service, were discharged from military service. Human rights NGOs complained that the military judicial process was not transparent and that they were unable to confirm any cases of military personnel who committed human rights violations serving time for their crimes. NGO sources said that military court proceedings all the way to the Supreme Court were not public.

Four district courts located in Surabaya, Makassar, Jakarta, and Medan were authorized to adjudicate cases of gross human rights violations. By year's end only the Makassar and Jakarta courts had adjudicated such cases. The law provides for each court to have five members, including three noncareer human rights judges, who are appointed to five-year terms. Verdicts can be appealed to the standing high court and the Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights.

In March 2006 the Supreme Court sentenced militia commander Eurico Guterres to 10 years in prison for charges in connection with atrocities that occurred during 1999 in three Timor-Leste locations: Liquica, Dili, and Suai. Of 18 original defendants, only Guterres received a jail sentence. Guterres filed for a judicial review, and the hearing was held in October 2006. At year's end no decision had been issued. Six of the 18 original defendants were convicted at the trial level. In 2004 the Jakarta High Court overturned four of the sentences. Later in 2004 the Supreme Court acquitted a fifth.

In 2005 the UN sent a Commission of Experts to Indonesia to evaluate the Indonesian ad hoc tribunal and Timor-Leste's Serious Crimes Unit. The commission recommended that either Indonesia retry the 290 perpetrators of violence still at large within six months or that the cases be tried before an international tribunal, including the possibility of an exceptional International Criminal Court investigation (that would extend the court's jurisdiction to crimes committed before its establishment).

In 2005 Indonesia and Timor-Leste established the Truth and Friendship Commission (CTF) to address the human rights violations that occurred in Timor-Leste in 1999. The mandate of the CTF has been extended to February 2008.

Under the Shari'a court system in Aceh, 19 district religious courts and one court of appeals heard cases. The courts heard only cases involving Muslims and used decrees formulated by the local government rather than the penal code. Critics argued that Shari'a regulations were procedurally ambiguous. For example, whether defendants had a right to access to legal aid was unclear and was inconsistently implemented. Although Shari'a cases are supposed to be tried in closed hearings, one high-profile case reportedly was held in open court, exposing defendants to verbal threats from the court audience.

Political Prisoners and Detainees

Human Rights Watch reported that on February 21, at least 18 Papuan independence activists were in detention for flag raising. They were charged with incitement of hatred and rebellion.

On October 18, the authorities arrested Papuan human rights activist, Iwanggin Sabar Olif, on suspicion of incitement of hatred and defamation for forwarding text messages. On December 13, Olif was charged with incitement to hatred. Some observers believed he was singled out for arrest for his human rights activities. He received regular access to legal counsel.

Civil Judicial Procedures and Remedies

Widespread corruption existed at all levels of the civil legal system. Bribes, extortion, and political considerations appeared to have influenced outcomes in numerous civil cases.

The civil court system can be used to seek damages for victims of human rights violations. However, corruption and political influence limited access of victims to this remedy.

In December 2006, the Constitutional Court ruled that the national Truth and Reconciliation Commission (TRC) created in 2004 by the DPR was unconstitutional (see section 4). The Constitutional Court chief justice stated that the government's lack of progress in appointing the TRC's members was one factor in its decision.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. The law also provides for searches without warrants when circumstances are "urgent and compelling." Security officials occasionally broke into homes and offices. The authorities occasionally conducted warrantless surveillance on individuals and their residences and monitored telephone calls. Corrupt officials sometimes subjected migrants returning from abroad, particularly women, to arbitrary strip searches, theft, and extortion.

Unlike in 2006 there were no reports that the special police charged with upholding Shari'a conducted warrantless searches.

In December 2006 the DPR passed a law reaffirming a longstanding requirement that the National Identity Card (KTP), which all citizens are required to carry, identify the holder's religion. NGOs charged that this feature of the KTP undermined the country's pluralistic tradition and endangered cardholders who traveled through areas prone to interreligious conflict.

In some parts of the country, particularly in Kalimantan and Papua, local residents believed that government-sponsored transmigration programs, which move households from more densely populated areas to less populated regions, interfered with their traditional ways of life, land usage, and economic opportunities. Although the number of new persons in transmigration was significantly less than in previous years, the government continued to support approximately 100,000 households moved over the years from overpopulated areas to 403 isolated and less developed areas in 26 provinces.

The government used its authority, and at times intimidation, to expropriate land for development projects, often without fair compensation. In other cases state-owned companies were accused of endangering resources upon which citizens' livelihood depended. In 2005 President Yudhoyono signed a decree on land acquisition for public use, which allows the government to acquire land for private development projects even if landowners have not agreed on the amount of compensation. A number of NGOs argued that the decree served the interests of wealthy developers at the expense of the poor.

During the year land disputes continued to generate charges of unfair evictions and use of excessive force by security officials. There was an increase in evictions of squatters and street vendors during the year. The NGO Poor People's Alliance reported that more than 20,000 persons were evicted from their homes or informal businesses between September and year's end. The NGO Jakarta Legal Aid estimated that security officials evicted 5,935 persons from the North Jakarta turnpike during the year, compared with 6,000 in all of Jakarta in 2006.

In March the Bangil District Court ruled in favor of the navy's right to land disputed with residents in Alastlogo, Pasuruan, East Java. At year's end, however, the land dispute continued with villagers still demanding that the navy return the land and refusing the navy's offer of 1,000 acres of land for approximately 6,000 households.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and the law provide for freedom of speech and freedom of the press; however, the government at times restricted these rights in practice. A vigorous, independent media operated in the country and expressed a wide variety of views generally without restriction. During the year the Constitutional Court continued to strike down articles of the criminal code that hampered freedom of speech. Nonetheless, politicians and powerful businessmen filed criminal or civil complaints against journalists whose articles they found insulting or offensive; some journalists faced threats of violence. During the year the police tapped the cell phone of a *Tempo* journalist to obtain text messages relating to a high-profile corruption scandal.

There was continued debate over proposed revisions to the criminal code. Among the more controversial provisions were ones that would protect government officials and the state ideology (Pancasila) from defamation. The revisions were still under debate at year's end.

During the year authorities arrested at least 39 persons for raising separatist flags in Maluku and Papua, compared with three during 2006. In the past individuals raising separatist flags in the course of peacefully advocating for secession, especially in conflict areas such as Aceh, Papua, and Maluku, were arrested under articles 106, 107, and 108 of the penal code, dealing with treason. Although the Papua Special Autonomy Law permits flying a flag symbolizing Papua's cultural identity, authorities continued to prohibit most public displays of the Papuan Morning Star Flag.

On June 22, the Maluku Brimob investigations unit confiscated at least 60 separatist South Maluku Republic (RMS) flags and RMS documents from a house belonging to a man identified as "DM". Five persons arrested during this raid admitted that they were preparing the flags to be displayed during President Yudhoyono's June 29 visit to Ambon.

On June 29, despite tight security measures, 28 dancers unfurled RMS flags in front of the stage where the president was sitting. The police counterterrorism unit, Detachment 88, arrested the dancers, and the Maluku police chief was dismissed. By year's end the Ambon police had named 35 persons as suspects in the incident. On November 8, the Ambon District Court began the trial of four of the suspects.

On July 1, Yusak Pagake, who began serving a 10-year term in prison for hoisting the Morning Star Flag in 2006, unfurled the flag above his prison for five minutes to mark the anniversary of the Free Papua Movement.

On July 4, police broke up a rally by some 50 demonstrators from the United Front for West Papuan People's Struggle in Yogyakarta after they unfurled a Morning Star flag. No one was arrested.

Jhon Sahureka and Dominggus Saranamual, who were arrested in April 2006 for their involvement in raising the RMS flag in Kudamati, Maluku, were released in May 2006. Popy Egenderph, a target of police investigation since 2004 because of her suspected involvement in past flag-raising incidents, remained in detention.

The government continued to restrict foreign journalists, NGOs, and parliamentarians from traveling to the provinces of Papua and West Papua by requiring them to request permission to travel through the Foreign Ministry or an Indonesian embassy. The government approved some requests and denied others. Some journalists traveled to Papua without permission. There were no reports of restrictions on journalists traveling to previous areas of conflict in Aceh, Maluku, North Maluku, and Sulawesi.

Journalists faced widespread violence and intimidation. From January to December, the Alliance of Independent Journalists (AJI) recorded 75 attacks against journalists, including physical violence as well as verbal threats and lawsuits. In the 12 months ending in August, two journalists were jailed, eight faced lawsuits, 10 were threatened, and 23 were assaulted. Government officials committed 10 acts of violence against journalists, mobs and thugs seven, and private security guards six.

On July 19, Probolinggo District Court found two of three suspects, Nipah and Suit, not guilty of the April 2006 murder of freelance journalist Herliyanto. A third suspect, Slamet, reportedly escaped from a mental hospital.

On April 5, the South Jakarta District Court acquitted *Playboy* magazine editor in chief Erwin Amada of distributing indecent pictures to the public and profiting from them. The April 2006 publication of the country's first edition of *Playboy* had sparked protests, although it contained no nudity. The police charged four models and the chief editor of the magazine in a lawsuit filed by the Islamic Defenders' Front (FPI) and the Indonesian Anti-Piracy and Pornography Society. In April 2006 approximately 300 FPI activists demanding the magazine cease publication attacked the building housing the magazine's office, causing damage and injuring two police officers. The police arrested three of the FPI members. The publisher moved the magazine's operations from Jakarta to Bali.

On August 30, the Supreme Court ruled in favor of former President Suharto in a libel suit against *Time*, ordering the magazine to pay \$106 million (one trillion rupiah) in damages and print an apology. *Time*'s May 1999 cover story "Suharto Inc." alleged that Suharto and his family had embezzled approximately \$15 billion (137 trillion rupiah) in state funds. Suharto first filed a lawsuit against *Time* in 1999, and the Jakarta District Court dismissed the case in June 2000. The Jakarta High Court rejected Suharto's appeal in March 2001. *Time* has filed for judicial review of the decision.

During the year the government took no legal action against any persons responsible for crimes committed against journalists in 2005 and 2006.

In 2002 the government enacted a broadcasting law that established a broadcasting commission (KPI) and designated the state as the sole authority to issue broadcasting licenses. In 2005 the government issued four implementing regulations banning live broadcast of regularly scheduled foreign programs by domestic carriers and giving the broadcast licensing authority to the Ministry of Communications and Information. Although some stations continued to air live broadcasts of foreign news reports, others instituted brief delays--some as short as five to seven seconds--to comply with the law. In May 2006 both the KPI and a coalition of NGOs separately

requested that the Supreme Court review the 2005 implementing regulations, arguing they infringe on media freedom, freedom of expression, and freedom of business. In May the Supreme Court rejected the request for review of the four implementing regulations. Local news broadcasts were not censored or subject to broadcast delays.

During the year members of the press continued aggressive reporting on such issues as corruption (including by senior government officials), the Munir murder case, and environmental degradation.

Internet Freedom

In November 2006 the Ministry of Information created an agency to prevent online crime among local users. Internet cafes are required to provide the identities of Internet users to the agency on a monthly basis. The Ministry of Communication and Information denied that this agency would monitor online content. There were no reported government restrictions on Internet access.

Academic Freedom and Cultural Events

During the year the government-supervised Film Censorship Institute continued to censor domestic and imported movies for content deemed pornographic or religiously offensive, but no films were prohibited from being shown by the central agency. In February a Balinese film board banned a documentary about the 2002 Bali bombings from being shown in Bali.

The AGO has the authority to monitor written materials. On March 5, the AGO banned further printing and distribution of 13 junior and senior high school history books because they insufficiently emphasized the role of the Communist Party (PKI) in the 1948 uprising in Madiun, East Java, and the 1965 coup attempt in Jakarta. The AGO argued that a Military Court (Mahmilub) had proven that the PKI was involved in the events of 1965 and therefore the omission of these facts in the books was unacceptable. Following the AGO's action, several regional attorneys general offices seized thousands of books from schools and in some cases carried out public book burnings. On July 7, Depok Mayor Nurmahmudi Ismail presided at a burning of 2,500 seized books, and on July 30, 1,340 books were burned outside the Bogor district prosecutor's office.

On December 14, the Jayapura District Prosecutor's Office confiscated 60 copies of local academic Sendius Wonda's book *The Sinking of the Melanesian Race: Indonesia's Political Struggle in West Papua*. The action was based on a November 27 AGO circular banning printed materials that could "mislead the public" and "disturb public order."

On August 25, the band Nidji performed in Banda Aceh, but the police required it to cancel two other performances after local Muslim groups accused them of promoting promiscuity and of having broken Shari'a law by not separating male and female audience members.

On August 10, protesters from an "antipornography" alliance prompted the reigning Miss Universe to curtail a visit to Bandung.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right. The law generally does not require permits for social, cultural, or religious gatherings; however, any gathering of five or more persons related to political, labor, or public policy requires police notification, and demonstrations require a permit. In general these permits were granted routinely. In at least one instance police used this regulation to restrict a separatist demonstration. On December 1, police arrested 37 Papuans in Timika who were celebrating a self-proclaimed Papuan independence. The police said that they did not have permission to stage the rally and that at least six of the group were carrying firearms. The 31 unarmed participants were released immediately. The six accused of carrying firearms remained in detention, and at year's end the status of their case was unknown.

During the year police continued a trend of showing restraint in dealing with violent demonstrations. On August 6, East Jakarta demonstrators protesting a government fuel-transfer program threw stones at police. The police used nonlethal force to control the crowd. At least 40 persons were injured, including five police officers. On August 21 and 22, police in North Maluku used nonlethal methods, including rubber bullets, to deal with a violent demonstration preceding the gubernatorial election. Nine protesters were injured, two seriously.

On other occasions police took no action to protect persons being attacked by mobs. On March 28, the FPI and others attacked members of the National Liberation Party of Unity (Papernas) holding a protest in Jakarta. Rocks were thrown at buses and vans carrying Papernas supporters, who were mostly women and children. The media reported a number of persons including children were injured. The FPI accused Papernas of being a communist organization. The NGO Asian Human Rights Commission reported that police present at the scene took no action to stop the violence.

Freedom of Association

The law provides for freedom of association, and the government generally respected it in practice. The People's Consultative Assembly banned the PKI in 1966. In previous years persons accused of being affiliated with the PKI were barred from the civil service and given special numbers on their national identity cards.

c. Freedom of Religion

The constitution provides for "all persons the right to worship according to his or her own religion or belief" and states that "the nation is based upon belief in one supreme God." The government generally respected the former provision. Six faiths--Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism--received official recognition in the form of representation at the Ministry of Religious Affairs. On February 24, the Home Affairs Ministry issued a regulation requiring local and provincial administrations to provide administrative services, such as issuing marriage licenses and identification documents that denote the bearer's religious affiliation, to Confucians. Other religious groups were able to register with the government, but only with the Ministry of Home Affairs and only as social organizations. These groups experienced some official and social discrimination. The law does not recognize atheism and in practical terms requires all persons to identify themselves with one of the six faiths acknowledged by the government.

The civil registration system continued to discriminate against members of minority religions. Civil registry officials refused to register the marriages or births of children of members of the Baha'i faith and others because they did not belong to one of the six officially recognized faiths. According to the Hindu association Parisadha Hindu Dharma Indonesia, Hindus, particularly in North Lampung, Southeast Sulawesi, Kalimantan, and some areas in East Java, despite official recognition of their religion, sometimes had to travel greater distances to register marriages or births because local officials would not perform the registration.

On July 28, couples who adhere to traditional beliefs (Aliran Kepercayaan) gained the right to have their marriages officially recognized under the law, which allows Aliran Kepercayaan leaders to officiate marriage ceremonies and sign marriage certificates, which can then be registered with the government.

Persons whose religion was not one of the six officially recognized faiths had difficulty obtaining a KTP, which was necessary to register marriages, births, and divorces. Several NGOs and religious advocacy groups urged the government to delete the religion category from the KTPs, but the DPR passed legislation in December 2006 retaining it.

Men and women of different religions experienced difficulties in marrying and in registering marriages. The government refused to register a marriage unless a religious marriage ceremony had taken place. However, very few religious officials were willing to take part in weddings involving couples of different faiths. For this reason, some brides and grooms converted to their partner's religion. Others resorted to traveling overseas to wed.

In April the Malang police arrested eight persons accused of disseminating a "prayer training" video produced by the College Student Service Organization in Batu, East Java. The video allegedly depicts 30 Christians at a December 2006 gathering being instructed to put Korans on the floor. Since April an additional 33 persons were detained under blasphemy charges in connection with the videos. Christian church leaders denied that Christians were involved in the production or distribution of the videos. On September 6, the court found all 41 accused guilty of insulting religion and sentenced each to five years in prison.

On June 11, the three women sentenced in 2005 to three-year prison terms for attempting to convert Muslim children to Christianity were released on parole.

As in previous years, some political parties advocated amending the constitution to adopt Shari'a on a nationwide basis, but most parliamentarians and the country's largest Muslim social organizations remained opposed to the proposal. There were no attempts by the national parliament or local legislatures to amend the constitution to adopt Shari'a laws. However, some local governments issued Shari'a-based local laws. Some human rights groups argued that these laws were illegal, since the country's regional autonomy law prohibits local laws from dealing with religion. Others argued that the Shari'a-based laws violated constitutional provisions that proscribe religiously based laws. Central government authorities have not challenged the issuance of such local regulations.

As in previous years, during the Muslim fasting month of Ramadan, many local governments ordered either the closure or limited operating hours for various types of "entertainment" establishments, particularly bars and nightclubs not located in five-star hotels. Government and mainstream Islamic leaders called on fringe groups not to carry out vigilante closings of establishments that violated these decrees, and these groups complied.

Societal Abuses and Discrimination

Until mid-December there had been significantly fewer attacks against the Ahmadiyah Islamic sect, considered heretical by many mainstream Muslims, than in the previous year. However, on December 18, a mob attacked a housing complex belonging to the Ahmadiyah in Kuningan, West Java, damaging 14 houses and two small mosques. The violence then spread to other locations in West Java including Manis Lor village, Kuningan Regency, and Sukajaya village, Tasikmalaya Regency. Moreover, the Ahmadiyah continued to face societal discrimination, and the government has done little to pursue accountability or to punish perpetrators of past attacks. In the wake of the December violence, the vice president ordered that the police "get tough" on Muslims who attack members of "deviant" Islamic sects.

On February 2, dozens of Ahmadiyah members came to the West Nusa Tenggara governor's office to demand that they be returned to their village of Gegerungan, Ketapang, West Lombok, after living over a year at a displaced persons camp in Mataram. In February 2006 between 500 and 1,000 local residents attacked an Ahmadiyah housing complex and forced 187 Ahmadiyah members from 25 homes. Conditions had deteriorated since the West Lombok Regency stopped supplying food and health services to the camp in January. At year's end more than 130 of the Ahmadiyah members remained at the Mataram camp.

In April the West Nusa Tenggara Chapter of the Indonesian Council of Ulemas (MUI) asked the West Nusa Tenggara governor to issue a ban on the Ahmadiyah because of the group's deviation from Islam.

At year's end the Ahmadiyah compound in Bogor, West Java, which was attacked and damaged in 2005, remained sealed, although Ahmadiyah members were able to use the office facilities. In his statement on the December violence, the vice president also said that "all seals locking the Ahmadiyah's places of worship have to be removed."

During the year another Islamic sect, Al-Qiyadah, also was accused of "deviating" from Islam, and the MUI urged that it be banned. Police briefly detained approximately two dozen of the sect's followers, ostensibly to protect them. All of the followers were released, some after being "converted" back to mainstream Islam. In November the AGO officially banned the sect, and the sect leader publicly announced his return to mainstream Islam.

During the year attacks against churches continued, primarily in West and East Java, although less frequently than in the past. Some churches were forced to close due to community pressure: in November a Catholic church in Tambora District, West Jakarta, stopped holding services under pressure from the local community.

In Central Sulawesi, Maluku, and North Maluku, religiously motivated violence and vigilante acts occurred less frequently than in previous years. Tensions in Central Sulawesi escalated slightly, however, following police action to capture 29 individuals wanted for perpetration of violent crimes. Following a police raid on January 11, bombs exploded in Poso's central market on January 12 and in three locations in Gebangrejo on January 20.

Another bomb detonated in the empty Eklesia church in Poso on July 1. On July 23, a South Jakarta State Court tried Abdul Muis for his involvement in the murder of Reverend Irianto Kongkoli in October 2006 in Palu, Central Sulawesi. The other suspect, Dedi Parsan, was shot and killed during the police raid on January 11.

The indigenous Jewish population is small. *Sabili*, a widely read Islamic magazine, continued to publish anti-Semitic articles. An account of a possible interest in investing in Aceh by the well-known financier George Soros prompted some Muslim political parties in Jakarta to issue statements about a "hidden agenda" and warning the government against Jews enticing the country to be weak on the Palestinian struggle. One member of parliament was quoted as saying: "Tell the Jews there is no place for their investment in Indonesia."

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution allows the government to prevent persons from entering or leaving the country. The Law on Overcoming Dangerous Situations gives military forces broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; however, the government did not use these powers. Citizens enjoy freedom of movement within the country and, with few exceptions, are able to travel outside the country.

During the year the government continued to restrict freedom of movement for foreigners to Papua through a system of "travel letters," but enforcement was inconsistent. On July 3, a foreign parliamentarian was denied permission to visit Papua during his visit to the country. In November the parliamentarian was granted permission to visit Papua.

The government prevented at least 788 persons from leaving the country during the year. The immigration office prevented these departures at the request of the police, AGO, KPK, and the Department of Finance. Some of those barred from leaving were delinquent taxpayers, convicted or indicted persons, and persons otherwise involved in legal disputes.

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

Internally Displaced Persons (IDPs)

The Internal Displacement Monitoring Center reported that there were between 150,000 and 250,000 IDPs in the country, between 30,000 and 150,000 of whom were in

Aceh, almost all the result of the 2004 tsunami. Some of the Aceh IDPs lived in temporary shelters, while others stayed with host families or were integrated into local communities. According to the Aceh Reconstruction and Rehabilitation Body, there were 5,200 tsunami victims still living in barracks and other temporary housing. A mud flow in Porong, East Java, left 2,500 persons in camps.

Protection of Refugees

The country is not a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. However, in practice there were no reports of refoulement, the forced return of persons to a country where there is reason to believe they feared persecution. The government cooperated with the UN High Commissioner for Refugees (UNHCR), which maintained an office in Jakarta, in assisting refugees and asylum seekers. At year's end there were 245 UNHCR-recognized refugees and 152 asylum seekers living in the country. Some were applicants and others were dependents. Most were from Iraq, Afghanistan, Somalia, or Sri Lanka.

The above figures do not include 10,436 former refugees from East Timor who resided in East Nusa Tenggara at the end of 2006, according to the East Nusa Tenggara Coordinating Unit for Disaster Management.

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.

The constitution provides for national elections every five years. DPR members automatically are members of the People's Consultative Assembly, a fully elected body consisting of the 550 DPR members and the 128 members of the House of Regional Representatives (DPD).

Elections and Political Participation

In 2004 President Yudhoyono became the country's first directly elected president in free and fair elections. Direct local elections, which began in 2005, have been generally free and fair. During the year the government held 53 local elections: nine for governor, 11 for mayor, and 33 for regent. Observers generally perceived the local elections as free and fair and, with a few exceptions, without incident affecting the outcome.

Most instances of election-related violence involved supporters of losing candidates attacking local election offices.

On August 21 and 22, thousands of supporters of the North Maluku traditional leader, Sultan of Ternate Mudaffer Syah, protested a local election office decision barring the sultan from running in the gubernatorial election. They occupied the premises of the local election office, blockaded major roads, and clashed with police who attempted to control the crowds.

On November 5, demonstrators surrounded the local election office in Talakar, South Sulawesi, protesting the regional election results. Demonstrators threw stones at police and burned tires. Police arrested 11 of the demonstrators. On December 19, the Supreme Court accepted the defeated incumbent's challenge to the South Sulawesi gubernatorial election results and ordered revoting in four regencies.

All adult citizens are eligible to vote except active members of the military and the police, convicts serving a sentence of five years or more, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice. Married juveniles are legally adults and allowed to vote.

There are no legal restrictions on the role of women in politics. During the year women held four of 36 cabinet seats. The election law includes a nonbinding call for parties to select women for at least 30 percent of the candidate slots on their party lists. A political parties law passed in December mandates that women make up 30 percent of the founding members of a new political party. Women made up 11.3 percent of the elected members of the DPR, 25 of the 128-member DPD were women, there was one female governor, and six elected female district chiefs. Women held disproportionately few leadership positions in local government in some provinces; for example, in Aceh the highest positions held by women were two deputy mayor and deputy regent positions.

During the year the Constitutional Court ruled that independent candidates could run for local office and that a political party's nomination was not required. By year's end the ruling had not been implemented.

With the exception of Aceh Province, where non-Muslims were effectively blocked from political office by a requirement that all candidates must demonstrate their ability to read the Koran in Arabic, there were no legal restrictions on the role of minorities in politics. There were no official statistics on the ethnic backgrounds of legislators in the DPR. President Yudhoyono's cabinet consisted of a plurality of Javanese, with others being of Sundanese, Bugis, Batak, Acehnese, Papuan, Balinese, Arab, and Chinese heritage.

Government Corruption and Transparency

There was widespread domestic and international perception that corruption was a part of daily life. Soon after taking office, the president established the Corruption Eradication Commission, giving it a broad investigative mandate. On July 23, former minister of maritime affairs and fisheries Rokhmin Dahuri was sentenced to seven years' imprisonment in connection with a \$1.26 million (approximately 12 billion rupiah) off-budget fund. On September 13, Golkar Party DPR member Nurdin Halid was sentenced to two years for misuse of government funds.

In December 2006 the Constitutional Court ruled that the legal provision creating the Anti-Corruption Court was unconstitutional but permitted the court to continue functioning for three more years.

The AJI reported no problems for the media in obtaining unclassified public documents from the government, although there is no law requiring the government to grant access to information to citizens and noncitizens. During the year, in response to a presidential decree on judicial transparency, the judiciary established a Web site that allows the public to access court decisions. In practice, civil society court monitors noted that some court decisions and legislation were still difficult to obtain.

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

The government met with local NGOs, responded to their inquiries, and took some actions in response to NGO concerns. UN Special Representative on the Situation of Human Rights Defenders Hina Jilani visited June 5 to 12 and was given full and unimpeded access to human rights defenders, including those in Papua and Aceh.

During the year, at the instruction of the president, the police began a new investigation into the 2004 killing of human rights activist Munir Said Thalib (see section 1.a.).

Domestic human rights organizations operated throughout the country and actively advocated for improvements to the government's human rights performance; however, they were subjected to monitoring, harassment, and interference by the government. Komnas HAM reported that from 2000-4, 14 human rights activists were killed, and no perpetrators were brought to justice. There have been no reports of human rights activists killed since 2004.

NGOs in Papua continued to report widespread monitoring of their activities by intelligence officials as well as threats and intimidation. Activists reported that intelligence officers took their pictures surreptitiously and sometimes questioned their friends and family members regarding their whereabouts and activities. Following Hina Jilani's June 8 visit to Jayapura, Papua, the Chairman of Komnas HAM Papua, Albert Rumbekwan, reported that he received numerous death threats and was followed. He reported that he was afraid to go to his office or home. According to Papuan human rights activists, a car with military intelligence license plates intentionally hit the moving car of a Papuan human rights activist. According to the activist's account, the incident was witnessed by police, who allowed the perpetrators to leave the scene.

The government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard with suspicion foreign human rights organizations, particularly those operating in conflict areas. Government monitoring of foreigners was apparent in conflict areas. Some domestic human rights organizations expressed concern about the possible negative consequences of contacting foreigners.

A number of government agencies and affiliated bodies addressed human rights problems, including the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, the National Commission on Violence Against Women (Komnas Perempuan), and Komnas HAM. In recent years Komnas HAM's efforts to expose human rights violations and bring perpetrators to account were undermined by a number of court decisions regarding its jurisdiction or authority: in 2005 the TNI stated it could not cooperate with attempts by Komnas HAM to summon retired and active-duty generals to answer questions about the abduction of prodemocracy activists between 1997-8. Parliament failed to approve formation of an ad hoc human rights court that could investigate severe human rights violations that occurred before 2000.

In December 2006 the Constitutional Court annulled the law mandating a Commission of Truth and Reconciliation to investigate Suharto-era abuses. Rights activists had challenged specific provisions allowing amnesty for perpetrators of severe human rights violations and limiting victims' ability to obtain compensation. However, the court ruled that the whole law should be repealed. The Constitutional Court based this decision on two factors: the impropriety of the TRC offering amnesty and the lack of progress in central government's selection of the 21 members of the TRC. The annulment of the law left victims of past human rights violations without a compensation mechanism.

The Law on the Government of Aceh promulgated in August 2006 states that a Human Rights Court would be established in Aceh within one year and that the judgments passed by the Human Rights Court would prescribe compensation, restitution, and rehabilitation for the victims of human rights violations. By year's end the government indicated that it was prepared to designate court officials as required as soon as the appropriate authorities recommend a case for prosecution.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution does not explicitly prohibit discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. However, in practice, the government failed to defend these rights adequately.

Women

The law prohibits domestic abuse and other forms of violence against women. However, rape and domestic violence were problems.

Reliable nationwide statistics on the incidence of rape continued to be unavailable. The legal definition of rape is narrow and excludes some acts that would commonly be treated as rape in other countries, such as marital rape. Sentencing continued to be a problem. Although rape is punishable by four to 12 years in jail, and the government jailed perpetrators for rape and attempted rape, most convicted rapists were sentenced to the minimum or less.

Violence against women remained poorly documented. Nationwide figures were unavailable. The National Commission on Violence Against Women reported that in 2006 (the most recent statistics available) there were 22,512 cases of violence handled by partner organizations across the country, and the local press reported that violence against women continued to increase. Most NGOs working on women and children's issues believed the real figure was far higher, noting the tendency of many victims to keep silent. As of October the NGO LBH Apik had handled 713 cases of violence in Jakarta. Two types of crisis centers were available for abused women: government-run centers in hospitals and NGO centers in the community.

Nationwide the police operated "special crisis rooms" or "women's desks" where female officers received criminal reports from women and child victims of sexual assault and trafficking and where victims found temporary shelter. On July 6, the police chief mandated that all police stations provide special crisis facilities on-site.

The legal differentiation between a woman and a girl was not clear. The law sets the minimum marriageable age at 16 for a woman (and 19 for a man), but the Child Protection Law states that persons under age 18 are children. A girl who marries has adult legal status. Girls frequently marry before reaching the age of 16, particularly in rural areas.

Female genital mutilation (FGM) was practiced in some parts of the country, including West Java. Complications reportedly were minimal. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic. Following September meetings with the Committee on the Elimination of Discrimination Against Women, the minister of women's empowerment called for a complete ban of the practice. This followed a 2006 Ministry of Health ban of FGM by doctors and nurses. However, symbolic female circumcisions that do not involve physical damaging of the child could be carried out, and violators of the ban did not face prosecution.

Prostitution is not specifically addressed in the law. However, many officials interpreted "crimes against decency/morality" to apply to prostitution. Prostitution was widespread and largely tolerated, despite its contradiction with popular societal and religious norms. During the year security forces reportedly participated in operating brothels or protection rackets shielding brothels from prosecution. International sex tourism reportedly continued, especially on the islands of Batam and Karimun and in major urban centers across the country.

Although it is not explicitly mentioned, sexual harassment is against the law and is actionable under the criminal code.

State policy and the law state that women have the same rights, obligations, and opportunities as men. However, the law also states that women's participation in the development process must not conflict with their role in improving family welfare and educating the younger generation. The marriage law designates the man as the head of the family. Women in many regions of the country, particularly in Papua, complained about differential treatment based on gender.

Although legal scholars believed that local governments lacked authority to legislate on religious matters, local governments continued to implement Shari'a-based local laws that many human rights and women's activists believed discriminate against women. During the year no new Shari'a-based local laws were passed. The central government has not challenged the validity of those regulations passed in previous years. In 2005 the local government of Tangerang, Banten, issued a regulation prohibiting women who "behave like prostitutes" and who are unaccompanied by male relatives from frequenting public areas in Tangerang after dark. The law also prohibits public displays of affection. Violation of this law is punishable by three months' imprisonment or a maximum fine of \$1,666 (15 million rupiah). Many activists protested the law because of its potential to lead to wrongful arrests of innocent women.

Divorce is available to both men and women. Muslims who sought divorce generally turned to the Shari'a-based family court system as a faster and cheaper alternative to the national court system. Non-Muslims obtained divorces through the national court system. Due to prejudicial attitudes, women often faced a heavier evidentiary burden than men, especially in the Shari'a-based family court system. Although both Islamic and national courts may award alimony, many divorcees received no alimony, since there was no system to enforce such payments. Men and women both keep the separate property they owned before marriage. If there is no prenuptial agreement, joint property is divided equally. The law requires a divorced woman to wait a certain period of time before remarrying; a man can remarry immediately.

During the year the government continued to implement Shari'a in Aceh. The impact of this implementation varied across the province but in general appeared to be less intrusive than in 2006 due to improved government oversight of the Shari'a police. The most visible impact on women's rights appeared to be the enforcement of dress codes. It was not uncommon for Shari'a police to briefly detain women whose dress did not conform to local Shari'a requirements and lecture them on appropriate attire. Local governments and groups in areas outside Aceh also undertook campaigns to promote conformity by women with the precepts of Shari'a. Some women told reporters that they felt humiliated when detained for dress code violations.

Women faced discrimination in the workplace, both in hiring and in gaining fair compensation. According to an International Trade Union Confederation (ITUC) report issued during the year, women on average earned 74 percent of what men earned, were overrepresented in unpaid and lower-paid positions in the informal sector, and held only 17 percent of managerial positions. According to the government, 43 percent of all civil servants were women, but they accounted for less than 7 percent of senior government officials.

Some activists said that in manufacturing, employers relegated women to lower-paying, lower-level jobs. Many female factory workers were hired as day laborers instead of as full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. By law if both members of a couple worked for a government agency, the couple's head-of-household allowance was given to the husband.

Organizations around the country promoted women's rights or otherwise addressed women's issues during the year, including Komnas Perempuan, Solidaritas Perempuan, Mitra Perempuan, LBH-Apik, and the International Catholic Migration Commission.

Children

The government stated its commitment to children's rights, education, and welfare, but it devoted insufficient resources to fulfill that commitment. Although the law provides for free education, in practice most schools were not free of charge, and poverty put education out of the reach of many children. Child labor and sexual abuse were serious problems. In 2003 the leader of the National Commission for Child Protection identified the most pressing problems related to the country's youth as child labor, child trafficking, child prostitution, street children, children in conflict areas, and undernourished children. The Child Protection Act addresses economic and sexual exploitation of children as well as adoption, guardianship, and other problems; however, some provincial governments did not enforce its provisions.

Although the law provides for free birth registration, it was not enforced, and approximately 30 percent of citizen births were not registered. It was often impossible to be certain of a child's age, and ages were falsified on identity cards, sometimes with the cooperation of government officials.

By law children are required to attend six years of elementary school and three years of junior high school; however, in practice the government did not enforce these requirements. According to the government's 2006 National Socio-Economic Household Survey, school enrollment rates were 97.7 percent for children ages seven to 12, 84.1 percent for children ages 13 to 15, and 53.9 percent for children ages 16 to 18. Although girls and boys ostensibly received equal educational opportunities, boys were more likely to finish school.

Monthly fees for public schools varied by province and were based on average incomes. Tuition, transportation, and school materials could cost a family between \$444 and \$777 (four million to seven million rupiah) per year for each primary and secondary student. In June 2005 the International Labor Organization (ILO) conducted a limited child labor survey in areas within five provinces (North Sumatra, East Kalimantan, West Java, East Java, and South Sulawesi), which revealed that one in five school-age children from low-income families had no access to education and experienced various kinds of exploitation at work--both in the formal and informal sectors. The survey also found that of 2,438 school-age children below 15 years of age, 19 percent were not attending school. It was unclear how many children were forced to leave school to help support their families. In some remote areas of East Java, lack of nearby school locations contributed to dropout rates as high as 50 percent and led children to seek work. In some areas parents and watchdog groups complained that corruption among public servants severely undermined the quality of education.

Boys and girls enjoyed equal access to government-provided healthcare.

Child abuse is prohibited by law, but government efforts to combat it generally have been slow and ineffective. NGOs reported that it continued to take excessively long to bring a child rape case to court and that mechanisms for reporting and dealing with child abuse were vague.

Commercial sexual exploitation of children continued to be a serious problem. The number of child prostitutes in the country was unclear, but the problem was widespread. Many teenage girls were forced into or found themselves caught in debt bondage. At times law enforcement officials treated child prostitutes as criminals rather than victims. Corrupt civil servants issued identity cards to underage girls, facilitating entry into the sex trade. There also were reports of sexual exploitation of boys. During the year NGOs reported that long-active pedophile rings continued to operate in Bali. During the year police broke up several large syndicates trafficking children both domestically and internationally, rescuing dozens of children and arresting officials complicit in falsifying the age of the children on official documents.

There were cases in which employment brokers paid parents advances of future salaries to be earned by their daughters. The child was required to repay the employment brokers. Researchers described a "culture of prostitution" in some parts of the country, where parents encouraged their daughters to work as big-city prostitutes and send the proceeds home.

NGO observers said many girls were forced into prostitution after failed marriages they had entered into when they were 10 to 14 years of age. There was no obvious violation of the law, because their paperwork identified them as adults due to the fact they were once married.

The government officially estimated that there were 2.1 million child laborers in the country. Other informed persons believed the number to be much higher.

A UN report found that juvenile detainees in prisons across Java were subjected to harsh conditions. The report noted that children as young as 10 were subjected to severe physical abuse by both police and other inmates. Although children were detained in juvenile detention centers, due to the high number of detainees, children frequently were mixed with the general population in both jails and prisons increasing the potential for abuse.

In East Java, local NGOs reported that the government paid little attention to the rights of juvenile offenders. In Surabaya, juveniles were held in the same detention facilities as adults during pretrial and trial phases of detention. The only prison for juveniles in Blitar, East Java, is far from the population centers of the province. As of July 2006, there were 126 juveniles in the Blitar prison. According to the East Java Children's Protection Agency, the physical conditions were inhumane. Most juveniles from Surabaya were remanded to Surabaya-area adult facilities. Juveniles frequently experienced abuse while in detention.

Substantial numbers of street children were apparent in Jakarta and the provinces of East Java, West Java, North Sumatra, and South Sulawesi. Surabaya, in East Java, was home to approximately 8,000 street children, many reportedly susceptible to sexual abuse and violence. Approximately 40 shelters in the province provided services to such children. The Jakarta City government operated a shelter with the capacity for approximately 200 children. The government continued to fund other shelters administered by local NGOs and paid for the education of some street children.

A number of NGOs promoted children's rights, including Child Advocacy Network, National Commission on Child Protection, Center for Study and Child Protection, and Foundation for Indonesian Child Welfare.

Trafficking in Persons

The government recognized trafficking as a crime and a serious national issue and in March enacted a comprehensive antitrafficking law. It also took steps against

corruption-related complicity. The antitrafficking law meets international standards and includes a comprehensive mandate for rescue and rehabilitation of victims. It outlaws all forms of trafficking including debt bondage and sexual exploitation and provides stiff penalties for officials and labor agents complicit in trafficking. Penalties for trafficking range from between three and 15 years in prison, with penalties for officials assessed at a rate one-third higher.

The country remained a major source for international trafficking in persons and faced a significant internal trafficking problem. It also was a receiving country for trafficked prostitutes, although the number was small relative to the number of Indonesian victims. The country was not a major transit point for trafficking. Malaysia and Saudi Arabia as well as other countries in the Middle East and Asia were destinations, and there were a few isolated cases of alleged trafficking to the United States. Prostitution, domestic servitude, and work in restaurants and hotels were the primary purposes, with some forced labor in construction and plantation work. Women and girls were also trafficked into forced marriages, particularly to Taiwan. Boys and girls under age 18 and secondarily women of all ages were most vulnerable to trafficking; however, all impoverished citizens were potential victims. Victims were subjected to physical and psychological abuse, sometimes resulting in death due to abuse or suicide. According to medical records approximately 70 percent of trafficked women--including domestic servants--contracted venereal disease. Some trafficking victims were forced to work long hours, seven days a week, without pay and in inhuman conditions.

Trafficking networks were decentralized beginning with neighborhood brokers who trafficked victims to labor supply agencies in large cities, who in turn sold victims to labor supply agencies in receiving countries. Local government, immigration, and manpower officials were complicit in the process. Domestically, women and girls were trafficked into prostitution by local recruiters and sold into a sophisticated national network. Local officials, police, and military were complicit in this as well.

Law enforcement against traffickers increased during the year: arrests increased from 142 to 165; prosecutions and convictions were believed to show similar increases, but statistics were not available. In 2006 the average sentence was 54 months in prison, compared with 30 months in 2005. During the year the government trained more than 1,000 law enforcement officials on fighting trafficking, often in interagency courses also attended by NGOs. The numbers of special antitrafficking police and prosecutors increased. The National Plan of Action (NPA) led to more effective national coordination. During the year, under the new law, there were dozens of arrests of domestic and international traffickers and hundreds of victims were rescued. Major cases included the arrests of a Jordanian, three Syrians, and three citizens in August, which resulted in the rescue of 121 trafficked persons. During the year officials, including diplomats and immigration officials, were also prosecuted for trafficking. Dozens of labor supply agencies using false documents were closed.

The NPA increased cooperation among law enforcement agencies, social service providers, and NGOs. The trafficking law and the NPA provided a system for prevention, law enforcement, and rescue and rehabilitation of trafficking victims. National and local task forces included social service, health, and law enforcement agencies, as well as civil society organizations. Trafficking victims were treated at police hospitals where they received counseling and were interviewed by police so they could press charges if they so chose. During the year dozens of traffickers were prosecuted under this system. Working with international NGOs, the government also helped rehabilitate victims and provided them with education or job skills.

A social stigma of being trafficked or returning home poor inhibited many victims from reintegrating into society; in some cases victims were trafficked by their parents and risked being victimized again if they returned home. Government funding for assisting victims was insufficient. Civil society played a major role in prevention of trafficking and assistance of victims.

The Singkawang District of West Kalimantan remained well known as an area from which poor, ethnic Chinese women and teenage girls between the ages of 14 and 20 were recruited as "mail order" brides for men, primarily in Taiwan but also in Hong Kong and Singapore. In some cases the women were trafficked for sexual exploitation and slave-like servitude.

Many victims became vulnerable to trafficking during the process of becoming migrant workers. Many unauthorized recruiting agents operated throughout the country and were involved in trafficking to various degrees, and some government-licensed recruiting agents also were implicated in trafficking. Recruiting agents often charged exorbitant fees leading to debt bondage and recruited persons to work illegally overseas, which increased the workers' vulnerability to trafficking and other abuses.

Credible sources noted that individual security force members were involved in setting up and protecting brothels. Traffickers and brothel owners reportedly paid protection money to security force members. An NGO survey of trafficking in Papua concluded that military members operated or protected brothels that housed trafficking victims. Apart from police and soldiers, some government officials were complicit in trafficking, particularly in the production of false documents. The prevalence and ease of obtaining fraudulent national identity cards, which could document children as adults, contributed to the trafficking problem. Within society and the government, there was continued reluctance to acknowledge that prostitution was a major problem.

Persons with Disabilities

The government classified persons with disabilities into four categories: blind, deaf, mentally disabled, and physically disabled. The constitution requires the government to provide them with "care"; however, care is not defined, and the provision of education to children with disabilities never was inferred from the requirement. The law also mandates accessibility to public facilities for persons with disabilities; however, the government did not enforce this provision. Few buildings and virtually no public transportation facilities provided such accessibility. The law requires companies that employ more than 100 workers to set aside 1 percent of their positions for persons with disabilities. However, the government did not enforce the law, and persons with disabilities faced considerable discrimination.

In urban areas only a few city buses offered wheelchair access, and many of those have had their hydraulic lifts vandalized, rendering them unusable.

In 2003 the government stated the country was home to 1.3 million children with disabilities, in 2007 according to government statistics 72,425 children with disabilities attended school. The actual number of children with disabilities was believed to be much higher. The law provides children with disabilities with the right to an education and rehabilitative treatment. A government official alleged that many parents chose to keep children with disabilities at home; however, many schools refused to accommodate such children, stating they lacked the resources to do so. According to the government, there were 1,568 schools dedicated to educating children with disabilities; 1,202 of them were run privately. Some young persons with disabilities resorted to begging for a living.

Few companies provided facilities for persons with disabilities, and fewer companies employed disabled persons. Accessibility to public facilities for disabled persons was limited. In November 2006 Surabaya's new airport opened and reportedly was not accessible for persons with disabilities. Lack of funds was generally cited as the primary reason for not improving accessibility.

The government provided voting facilities for persons with disabilities. The Ministry of Social Affairs is responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities

The government officially promotes racial and ethnic tolerance. Ethnic Chinese accounted for approximately 3 percent of the population, by far the largest nonindigenous minority group, and played a major role in the economy. Instances of discrimination and harassment of ethnic Chinese continued to decline compared with previous years. Recent reforms increased religious and cultural freedoms. However, some ethnic Chinese noted that public servants still discriminated against them when issuing marriage licenses and in other services and often demanded bribes for a citizenship certificate, although such certificates were no longer legally required. An attorney advocate for the rights of ethnic Chinese noted 50 articles of law, regulation, or decree that discriminated against ethnic Chinese citizens. NGOs such as the Indonesia Anti-Discrimination Movement urged the government to revoke the remaining discriminatory articles.

Indigenous People

The government views all citizens as "indigenous"; however, it recognizes the existence of several "isolated communities" and their right to participate fully in political and

social life. These communities include the myriad Dayak tribes of Kalimantan, families living as sea nomads, and the 312 officially recognized indigenous groups in Papua. During the year indigenous persons, most notably in Papua, remained subject to widespread discrimination, and there was little improvement in respect for their traditional land rights. Mining and logging activities, many of them illegal, posed significant social, economic, and logistical problems to indigenous communities. The government failed to prevent domestic and multinational companies, often in collusion with the local military and police, from encroaching on indigenous people's land.

In Papua tensions continued between indigenous Papuans and migrants from other provinces, between residents of coastal and inland communities, and among tribes.

In Central Kalimantan, relations between indigenous Dayaks and ethnic Madurese transmigrants remained poor in the wake of 2001 interethnic violence. Relations between the two groups also remained poor in West Kalimantan, where former residents of Madurese descent were obstructed in their attempts to reclaim their property. In November and December, there was an increase in tensions between Madurese, Chinese, and Dayaks in the wake of local elections.

Human rights activists said that the government-sponsored transmigration program transplanting poor families from overcrowded Java and Madura to less populated islands violated the rights of indigenous people, bred social resentment, and encouraged the exploitation and degradation of natural resources on which many indigenous persons relied. In some areas, such as parts of Sulawesi, the Maluku, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were poor.

Other Societal Abuses and Discrimination

Stigma and discrimination against persons with HIV/AIDS were pervasive. However, the government encouraged tolerance, took steps to prevent new infections, and provided free antiretroviral (ART) drugs, although with numerous administrative barriers. The government position of tolerance was adhered to unevenly at all levels of society; for example, prevention efforts often were not aggressive for fear of antagonizing religious conservatives, and in addition to barriers to access to free ART drugs, potential recipients had to pay medical fees that put the cost beyond the reach of many.

Section 6 Worker Rights

a. The Right of Association

The law provides broad rights of association for workers, and workers exercised these rights. The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. The law stipulates that 10 or more workers have the right to form a union, with membership open to all workers, regardless of political affiliation, religion, ethnicity, or gender. Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The Ministry of Manpower and Transmigration (the manpower ministry) records, rather than approves, the formation of a union, federation, or confederation and provides it with a registration number. During the year some unions reported local Manpower Ministry offices prejudicially recommended denial of registration. The vast majority of union members belonged to one of three union confederations.

In 2005 the manpower ministry estimated total trade union membership at less than 4 percent of the total workforce (including the informal sector), or 14 percent of the formal sector.

The law recognizes civil servants' freedom of association and right to organize, and employees of several ministries formed employee associations; union organizations sought to organize these workers. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

The law allows the government to petition the courts to dissolve a union if it conflicts with the state ideology or the constitution, or if a union's leaders or members, in the name of the union, commit crimes against the security of the state and are sentenced to at least five years in prison. Once a union is dissolved, its leaders and members may not form another union for at least three years. There were no reports that the government dissolved any unions during the year.

The law prohibits antiunion discrimination by employers and others against union organizers and members and provides penalties for violations; however, the government did not effectively enforce the law in many cases. There were credible reports of employer retribution against union organizers, including dismissals and violence that were not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized. Legal requirements existed for employers to reinstate workers fired for union activity, although in many cases the government did not enforce this effectively.

According to the ITUC, legal procedures were very long, with antiunion discrimination cases sometimes taking up to six years. Bribery and judicial corruption have been a problem for workers involved in disputes, and decisions often were not in their favor. While dismissed workers may be financially recompensed, they were rarely reinstated.

In August 2006 Amnesty International called on the government to release six imprisoned trade union leaders, who were arrested following a strike and demonstration at a palm oil plantation in Riau Province in 2004. Two of the men were released in May. The other four had been released earlier.

Companies sometimes transferred union leaders to jobs where they cannot continue their union activities. In September 2006 the state-owned workers' insurance company, PT JAMSOSTEK, demoted two JAMSOSTEK union leaders and transferred 12 others in connection with a union vote of no confidence in company management. All the affected workers sued the company seeking reinstatement to their former positions. In September the company transferred the two leaders to branch offices and allegedly took punitive actions against eight other union activists.

In May, as part of a dispute between the management of a European-owned hotel and union workers, management ceased transfer of union dues and dismissed 26 union members including union officers. Union officials were barred from attending union meetings on hotel premises.

b. The Right to Organize and Bargain Collectively

According to the manpower ministry, approximately 25 percent of companies with more than ten employees have collective bargaining agreements. However, in reality these agreements rarely went beyond the legal minimum provisions set by the government and often resulted from employers unilaterally drawing up agreements and presenting them to workers' representatives for signature rather than negotiation. The law allows unions to conduct their activities without interference; however, the government often did not protect this right in practice. The law provides for collective bargaining and allows workers' organizations that register with the government to conclude legally binding collective labor agreements (CLAs) with employers and to exercise other trade union functions. The law includes some restrictions on collective bargaining, including a requirement that a union or unions represent more than 50 percent of the company workforce to negotiate a CLA.

The Manpower Development and Protection Act (Manpower Act), which regulates collective bargaining, the right to strike, and general employment conditions does not apply to SOEs. Some unions claimed that the law contains inadequate severance benefits and protection against arbitrary terminations and does not sufficiently restrict outsourcing and child labor. The government continued to issue implementing decrees for the Manpower Act.

Company regulations, allowed for under government regulations, substituted for CLAs in the vast majority of enterprises, many of which did not have union representation. The Manpower Act requires that employers and workers form joint employer/worker committees in companies with 50 or more workers, a measure to institutionalize communication and consensus building.

Under the Manpower Act, workers must give written notification to the authorities and to the employer seven days in advance for a strike to be legal, specifying the starting and ending time of the strike, venue for the action, reasons for the strike, and including signatures of the chairperson and secretary of the striking union. A ministerial regulation declares illegal all strikes at "enterprises that cater to the interests of the general public or at enterprises whose activities would endanger the safety of human life if discontinued...." What types of enterprises are included in this classification is not specified, leaving it to the government's discretion. The same regulation also classifies strikes as illegal if they are "not as a result of failed negotiations" and gives employers leeway to obstruct a union's move to strike because failure is classified as negotiations that lead to a deadlock "that is declared by both sides."

Before workers can proceed with a strike, they must also engage in lengthy mediation with the employer, beginning with bargaining and, if that fails, proceed to mediation facilitated by a government mediator. The ministerial regulation also provides that in the case of an illegal strike, an entrepreneur must make two written appeals within a period of seven days for workers to return. Workers who do not respond to those appeals are considered to have resigned. Such appeals were commonly used by employers as intimidation tactics against strikers.

In practice strikes were prohibited in the public sector, in essential services, and at enterprises that serve the public interest. The ITUC noted that this clearly goes beyond the definition of acceptable prohibitions on strike action by the ILO Committee on Freedom of Association, which has held that strikes may only be restricted where there exists "a clear and imminent threat to the life, personal safety, or health of the whole or part of the population". The prolonged, legally mandated mediation procedures that must be followed before calling a strike were not enforced. As a result strikes tended to be unsanctioned "wildcat" strikes that broke out after a failure to settle long-term grievances or when an employer refused to recognize a union.

The underpayment or nonpayment of legally required severance packages precipitated strikes and labor protests. The international labor rights organization Solidarity Center documented cases in which foreign employers in the garment and footwear industry, faced with falling orders and plant closures, fled the country to avoid making legally required severance payments.

According to the Indonesian Prosperity Trade Union, relations between government, employers, and workers were still tense. Employers terminated workers trying to set up trade unions or demoted union leaders and members. Some unions claimed that strike leaders were singled out for lay-offs when companies downsized their workforce.

Labor activists charged that managers in some locations employed thugs to intimidate and assault trade union members who attempted to organize legal strike actions, and, at times, the police intervened inappropriately and with force in labor matters, usually to protect employers' interests.

On May 1, Sarta bin Sarim joined a labor march as it passed his workplace in Tangerang, West Java, where he was chairman of the local union. The demonstration was reportedly peaceful and without incident, but later that night, police arrested Sarta, along with 10 nonunion marchers from another workplace. Sarta alleged that while in custody with a guard a few feet away another prisoner beat him, and that later police threatened him with physical harm to coerce him to sign a false interrogation report. He served three months in prison in Tangerang for committing "unpleasant acts" and was released on July 31. When Sarta appealed his conviction to a higher court the prosecutor called Sarta's union and, union officials alleged, threatened to prosecute him again if he appealed.

Unions have been directly affected by the increasing trend of using contract labor. Under the Manpower Act, contract labor is supposed to be used only for work that is "temporary in nature." However, according to ITUC, many employers violated these provisions with the connivance of local offices of the manpower ministry. Typically, companies declared bankruptcy in order to avoid severance payments provided for under law, closed the factory for several days, and then rehired workers as contract labor at a lower cost. Union leaders and activists usually were not rehired.

There are no special laws or exemptions from regular labor laws in special economic zones (SEZs). However, nongovernmental observers, including the Solidarity Center, described stronger antiunion sentiment and actions by employers in SEZs. For example, employers in manufacturing enterprises in the Batam SEZ tended to hire labor on two-year contracts and favored workers under 24 years of age. Both practices inhibited union formation.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced labor or compulsory labor, including by children; however, there were reports that such practices occurred, including forced and compulsory labor by children.

The government tolerated forms of compulsory labor practiced in the migrant worker recruitment process. The unscrupulous practices of migrant worker recruiting agencies, and poor enforcement of government regulations, often led to debt bondage and extended unlawful confinement. According to press reports and research by Solidarity Center, recruiting agencies frequently kept migrant workers in holding centers, for as long as 14 months in some cases, before sending them abroad. While in the holding centers, migrant workers normally did not receive pay, and recruiters often did not allow them to leave the centers. In most instances workers were forced to pay recruiters for the cost of their forced stay, which resulted in large debts to the recruiters. The manpower ministry took limited measures to enforce labor laws that prevent employment agencies from trafficking workers through debt bondage. In 2006 police and manpower ministry officials conducted raids on 32 licensed and six illegal migrant worker holding centers in Jakarta, targeting those that forcibly held prospective workers, both adults and children, some in inhumane conditions. The raids resulted in the release of 3,438 prospective workers, and the arrests of eight suspects. The manpower ministry was unable to provide information on the disposition of 20 arrest cases arising from the raids conducted in 2004 and 2005.

During the year the government made a halting effort to renegotiate a 2006 MOU with the government of Malaysia about Indonesian workers' conditions in Malaysia. The MOU ceded some basic worker rights to employers, particularly the right of workers to hold their own passports. The government quickly abandoned the renegotiation effort.

Girls and women employed as household servants often were held in debt bondage.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children from working in hazardous sectors and the worst forms of child labor. However, the government did not enforce these laws effectively. Law, regulations, and practice acknowledged that some children must work to supplement family incomes. The Manpower Act prohibits the employment of children, defined as persons under 18, except for those 13 to 15 years of age, who may work no more than three hours per day and only under a number of other conditions, such as parental consent, no work during school hours, and payment of legal wages. The law does not appear to address exceptions for children ages 16 to 17.

A strong legal framework and National Action Plans address economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade, and provide severe criminal penalties and jail terms for persons who violate children's rights. Implementation remained a problem.

Child labor remained a serious problem. An estimated six to eight million children exceeded the legal three-hour daily work limit, working in agriculture, street vending, mining, construction, prostitution, and other areas. More children worked in the informal than the formal sector. Some children worked in large factories, but their numbers were unknown, largely because documents verifying age could be falsified easily. Children worked in industries such as rattan and wood furniture, garment, footwear, food processing, and toy making, and also in small-scale mining operations. Many girls between 14 and 16 years of age worked as live-in domestic servants. The ILO estimated that there were 2.6 million domestic workers in the country, of whom at least 688,000 were children. According to a 2005 Human Rights Watch report, children between 12 and 15 years of age worked 14 to 18 hours per day, seven days a week from 4 a.m. to 10 p.m. for employers who often subjected them to physical and sexual threats. Many child servants were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights.

The law and regulations prohibit bonded labor by children; however, the government was not effective in eliminating forced child labor, which remained a serious problem. A significant number of children worked against their will in prostitution, pornography, begging, drug trafficking, domestic service, and other exploitive situations, including a small number on fishing platforms.

Social and cultural resistance remained a challenge in addressing child labor. Many parents disagreed with government efforts to restrict children from working, arguing that the government offered inadequate economic support to guarantee these families' welfare.

Enforcement of child labor laws remained largely ineffective. Despite legislative and regulatory measures, most children who worked, including as domestics, did so in unregulated environments. Anecdotal evidence suggested that local labor officials carried out few child labor investigations.

e. Acceptable Conditions of Work

Provincial and district authorities, not the central government, establish minimum wages, which vary by province, district, and sector. Provincial authorities determined provincial minimum wage levels based on proposals by tripartite (workers, employers, and government) provincial wage commissions. The provincial minimum wage rates establish a floor for minimum wages within the province. Local districts set district minimum wages using the provincial levels as references. Districts also set minimum wages in some industrial sectors on an ad hoc basis. Provinces and districts conducted annual minimum wage rate negotiations, which often produced controversy and protests.

The minimum wage levels set by most local governments did not provide a worker and family with a decent standard of living. Most province-level minimum wage rates fell below the government's own calculation of basic minimum needs. During the year Aceh offered the highest minimum wage (approximately \$105 (1 million rupiah) per month), while the manpower ministry reported official minimum wages as low as \$43 (390 thousand rupiah) per month in one area.

Local manpower officials were responsible for enforcing minimum wage regulations. Enforcement remained inadequate, particularly at smaller companies and in the informal sector. In practice official minimum wage levels applied only in the formal sector, which accounted for 35 percent of the workforce.

Labor law and ministerial regulations provide workers with a variety of benefits. Persons who worked at more modern facilities often received health benefits, meal privileges, and transportation. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency JAMSOSTEK.

The law establishes a 40-hour workweek, with one 30-minute rest period for every four hours of work. Companies often required a five-and-a-half- or six-day workweek. The law also requires at least one day of rest weekly. The daily overtime rate was 1.5 times the normal hourly rate for the first hour and twice the hourly rate for additional overtime, with a maximum of three hours of overtime per day and no more than 14 hours per week. Workers in industries that produced retail goods for export frequently worked overtime to meet contract quotas. Unions complained that companies relied upon excessive overtime in some garment and electronics assembly plants, to the detriment of workers' health and safety. Observance of laws regulating benefits and labor standards varied by sectors and regions. Employer violations of legal requirements were fairly common, sometimes resulting in strikes and protests. The Solidarity Center reported that workers in the garment industry worked extremely long hours but because their pay slips did not specify the amount of overtime paid, workers could not be certain they were fully compensated for overtime. The Manpower Ministry continued to urge employers to comply with the law; however, government enforcement and supervision of labor standards were weak.

Both law and regulations provide for minimum standards of industrial health and safety. In practice the country's worker safety record was poor. JAMSOSTEK reported 37,845 accidents in the first three months of the year, compared with 99,624 for the whole of 2006. Local officials have responsibility for enforcing health and safety standards.

In larger companies, the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Workers are obligated to report hazardous working conditions, and employers are forbidden by law from retaliating against those who do report hazardous working conditions; however, the law was not enforced effectively.

 [BACK TO TOP](#)



Japan

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Japan is a parliamentary democracy with a population of approximately 127.7 million. Sovereignty is vested in the citizenry, and the emperor is defined as the symbol of state. On September 25, Yasuo Fukuda replaced Shinzo Abe as prime minister and head of a coalition composed of the Liberal Democratic Party (LDP) and the New Komeito Party. In elections on July 29, the Democratic Party of Japan ended the LDP's half-century dominance of the Diet when it captured a majority in the upper house. The elections were generally considered free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the rights of its citizens. There were some cases of violence and other abuse against women and children and of sexual harassment. Despite government efforts to combat human trafficking, it remained a problem. Employment discrimination against women occurred, and human rights nongovernmental organizations (NGOs) reported discrimination against ethnic and other minorities.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no 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 the government generally respected these provisions in practice. Unlike in past years, there were no reports of violence against prisoners or detainees.

At year's end the civil case against three police officers convicted for the 2004 death of a suspect who was being held in a police detention center was still pending.

The government continued to deny death-row inmates and their families information about the date of execution. Families of condemned prisoners were notified of the execution after the fact. Condemned prisoners, although held in solitary confinement for an average of seven years and five months until their execution, were allowed visits by their families and lawyers and, following revisions to penal regulations that took effect during the year, by other persons as well.

Prisoner rights NGOs reported that prison management regularly abused the rules on solitary confinement for prisoners. Although the Prison Law Enforcement Regulation stipulates the maximum time prisoners may be held in solitary confinement, it gives wardens broad leeway. Punitive solitary confinement may be imposed for a maximum of 60 days, but procedures allow wardens to keep prisoners in "isolation" solitary confinement indefinitely.

Prison and Detention Center Conditions

Prison conditions generally met international standards. However, several facilities were overcrowded, lacked heating, and provided inadequate food and medical care. NGOs reported that inmates in some institutions were given insufficient clothing and blankets to protect themselves against cold weather. In August two men in detention facilities that lacked air conditioning or fans died of heatstroke. NGOs, lawyers, and doctors criticized healthcare in prisons, police-operated preindictment detention centers, and immigration detention centers.

Unlike in past years, there were no reports of rape or brutality against prisoners.

Regulations do not require that minors be held separately from adults in immigration detention centers; however, unlike in past years there were no reports of minors being held in the same correctional or immigration detention facilities as adults. NGOs reported that the two 16-year-old Kurdish immigrants who had been held in an Ibaraki Prefecture immigration detention center alongside adults in 2006 had been granted provisional release, but their refugee applications were still pending.

Prison management regulations stipulate that independent committees inspect prisons and detention centers operated by the Ministry of Justice. These committees included physicians, lawyers, local municipal officials, NGO representatives, and other local citizens. Prisoner rights advocates reported that the committees visited Ministry of Justice prisons throughout the year. In June the committees began inspecting police-operated detention centers as well. There was no independent inspection regime for immigration detention centers. Human rights NGOs reported that in comparison to past years, there appeared to be an increased flow of correspondence in and out of prisons.

In May the UN Committee Against Torture (UNCAT) criticized immigration detention centers for alleged violence, the unlawful use of restraining devices, sexual harassment, and lack of access to healthcare. UNCAT also criticized the lack of an independent monitor of immigration detention centers.

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

Civilian authorities maintained effective control over the National Police Agency (NPA) and local police forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. However, some NGOs criticized local public safety commissions for lacking independence from or sufficient authority over police agencies.

Arrest and Detention

Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and detainees were brought before an independent judiciary.

The law provides detainees the right to a prompt judicial determination of the legality of the detention, and authorities respected this right in practice. The law requires authorities to inform detainees immediately of the charges against them. Authorities usually held suspects in police-operated detention centers for an initial 72 hours. A judge must interview a suspect prior to further detention. The judge may extend pre-indictment custody by up to two consecutive 10-day periods. Prosecutors routinely sought and received these extensions. Prosecutors may also apply for an additional five-day extension.

The code of criminal procedure allows detainees, their families, or representatives to request that the court release an indicted detainee on bail. However, bail was not available preindictment to persons detained in police-operated detention centers.

Unlike in past years, preindictment detainees had access to counsel, including court-appointed attorneys, but prisoner advocates said that in practice this access was limited both in duration and frequency. Counsel may not be present during interrogations at any time. Family members were allowed to meet with detainees, but only in the presence of a detention officer.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

There are several levels of courts, including family and summary courts, district courts, high courts, and the Supreme Court, which serves as the court of final appeal.

Trial Procedures

The law provides the right to a fair trial for all citizens and ensures that each charged individual receives a public trial by an independent civilian court, has access to defense counsel, and has the right to cross-examine witnesses. A defendant is presumed innocent until proven guilty in a court of law, and defendants cannot be compelled to testify against themselves.

UNCAT, NGOs, and lawyers questioned whether defendants were presumed innocent in practice. According to legal advocacy NGOs, the majority of detainees who were indicted confessed while in police custody. Safeguards exist to ensure that suspects cannot be compelled to confess to a crime or be convicted when a confession is the only evidence, but a manual of police interrogation procedures showed that police investigators are authorized to use heavy pressure to extract confessions. The use of police-operated detention centers, which puts suspects in the custody of their interrogators, has been on the rise for more than 30 years. According to government statistics, more than 98 percent of arrested suspects were sent to police detention facilities. The other 2 percent were held in Ministry of Justice-operated preindictment detention centers. More than 99 percent of cases that reached a trial court resulted in conviction.

During the year there were widespread media reports of persons convicted on the basis of police-obtained confessions, who were later proved innocent. In January the Toyama prefectural police and District Public Prosecutor's Office admitted that a man had been wrongly convicted and served 25 months in prison based on "insufficient" evidence. In August the Supreme Public Prosecutor's Office released a report acknowledging that investigators sometimes placed too much emphasis on confessions and recommending measures to prevent false charges.

Trial procedures favor the prosecution. Although the law provides for access to counsel, a significant number of defendants reported that this access was insufficient. The law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. The legal representatives of some defendants claimed that they did not receive access to relevant material in the police record.

The language barrier was a serious problem for foreign defendants. No guidelines existed to ensure effective communication between judges, lawyers, and non-Japanese-speaking defendants. No standard licensing or qualification system existed for court interpreters, and trials proceeded even if no translation or interpretation was provided to the accused. Several foreign detainees claimed that police urged them to sign statements in Japanese that they could not read and that were not translated adequately.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Cases involving human rights violations have been brought before these courts.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. The requirement for Ministry of Education approval of history textbooks has been a subject of controversy, particularly regarding the treatment of certain subjects pertaining to the 20th century.

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.

c. Freedom of Religion

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

Societal Abuses and Discrimination

Relations among religious groups were generally amicable. An estimated 200 Jewish families lived in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights 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, 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 there is reason to believe they feared persecution. However, in May UNCAT noted that Japanese law does not expressly prohibit deportation to countries where there is a risk of torture. In addition, UNCAT criticized the lack of an independent body to review applications for refugee status, the fact that the Ministry of Justice does not allow applicants for refugee status to select legal representatives for appeal, and the restrictions on government legal assistance for nonresidents. UNCAT, NGOs, and lawyers criticized the indefinite and often long period of detention between the rejection of an application for asylum and deportation.

The government granted refugee status or asylum in only a small number of cases. Of 959 claims submitted to the Ministry of Justice in 2006, the government granted refugee status to 34 persons. The country also provided temporary protection to 53 individuals who did not qualify as refugees under either the 1951 convention or the 1967 protocol. The government did not accept any refugees for resettlement during the year.

Refugees faced the same patterns of discrimination that ethnic minorities did in the country: reduced access to housing, education, and employment. Persons whose refugee status was pending or on appeal did not have the legal right to work or receive social welfare, rendering them completely dependent on overcrowded government shelters or the support of NGOs.

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 the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

In July the country held elections for the upper house of the Diet. The elections were considered generally free and fair.

Political parties operated without restriction or outside interference.

Women held 45 of 480 seats in the lower house of the Diet and 43 of the upper house's 242 seats. At year's end there were five female governors. There were two women in the 18-member cabinet. Because some ethnic minorities are of mixed heritage and do not self-identify, it was difficult to determine the number of minorities that served in the Diet. In the past an Ainu served in the upper house, and currently some Diet members are naturalized citizens.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were several reports of government corruption during the year. According to NPA figures for 2006, there were 74 cases involving bribery and 42 cases of bid rigging, compared with 65 for bribery and 17 for bid rigging during 2005. There were regular media reports of financial accounting scandals involving politicians and government officials.

The public has the legal right to access government information. There were no reports that the government denied legal requests for information or required information seekers to pay prohibitive fees to gain 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 governmental 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 on the basis of race, gender, disability, language, and social status. Although the government generally enforced these provisions, discrimination against women, ethnic minority groups, and foreigners remained a problem.

Women

The law criminalizes all forms of rape, including spousal rape, and the government generally enforced the law effectively. According to government statistics, 1,948 rapes were reported in 2006, and 153 persons were convicted for rape, and six persons for gang rape. Many police stations had female officers to provide confidential assistance to female victims.

Although prohibited by law, domestic violence against women remained a problem. District courts may impose six-month restraining orders on perpetrators of domestic violence and impose sentences of up to one year in prison or fines of up to \$8,500 (one million yen). In 2006 courts granted 2,208 out of 2,759 petitions for protection orders. The law, which covers common-law marriages and divorced individuals, was amended in July to include protection not only for victims of abuse but also for persons threatened with violence. According to NPA statistics, in 2006 there were 18,236 reported cases of domestic violence. Spousal violence consultation assistance centers reported 57,088 consultation cases in 2006.

Prostitution is illegal but widespread. Domestic sex tourism was not a significant problem.

Sexual harassment in the workplace remained widespread. In fiscal year (FY) 2006 the Ministry of Health, Labor, and Welfare (MHLW) received 11,102 reports of such harassment. The law includes measures to identify companies that failed to prevent sexual harassment, but it does not include punitive measures to enforce compliance other than publicizing the names of offending companies. The government established hot lines and designated ombudsmen to handle complaints of discrimination and sexual harassment.

The law prohibits sexual discrimination and provides women the same rights as men. A Council for Gender Equality existed to monitor enforcement; its high-level members included the chief cabinet secretary, cabinet ministers, and Diet members. During the year the council regularly met to examine policies and monitor progress on gender equality.

Inequality in employment remained entrenched in society. Women composed 41.5 percent of the labor force, and their average monthly wage was \$1,988 (222,600 yen), less than two-thirds of the monthly wage earned by men (\$3,015, or 337,700 yen). A June Cabinet Office report showed that among developed countries Japan ranked extremely low in the number of women serving in leadership roles in management or politics.

The issue of "comfort women," or women forced into sexual slavery for Japanese troops in World War II, continued to draw controversy. In 1995 the government established the Asian Women's Fund (AWF), which sent a signed apology from the prime minister along with privately raised financial compensation to each victim. Critics of the policy towards comfort women maintained that the apology letter from the prime minister took moral but not legal responsibility for the suffering endured by the comfort women, and called for the government to pay direct compensation.

Children

The government was committed to the rights and welfare of children, and in general children's rights were protected adequately.

Public school education is provided for up to 12 years. Education is free and compulsory through the lower secondary level (age 15 or the ninth grade). Education was widely available to students who met minimum academic standards at the upper secondary level through age 18. Society placed an extremely high value on education, and enrollment levels for both boys and girls through the upper secondary level exceeded 94.4 percent, according to the Ministry of Education, Culture, Sports, Science, and Technology. There were no differences in the treatment of girls and boys at any level of school.

The government provides universal health care for all citizens, including children.

Reports of child abuse continued to increase at an alarming rate. In FY 2006 there were 37,343 reported cases of child abuse by parents or guardians. According to the NPA, 59 children died in FY 2006 after being abused. The law grants child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. The law also bans abuse under the guise of discipline and mandates that anyone aware of suspicious circumstances must report the information to a nationwide local child-counseling center or municipal welfare center.

The law does not criminalize the possession of child pornography, which often depicted the brutal sexual abuse of small children. The absence of a statutory basis makes it difficult for police to obtain search warrants, preventing them from effectively enforcing existing child pornography laws or participating in international law enforcement efforts in this area. Along with child pornography involving real victims, child molesters used cartoons and comics depicting child pornography to seduce children. Internet Service Providers in Japan acknowledged that the country has become a hub for child pornography, leading to greater victimization of children both domestically and abroad.

Trafficking in Persons

The law establishes human trafficking both for sexual and labor exploitation as a criminal offense.

Nonetheless, human trafficking remained a significant problem despite government efforts, including stricter requirements for entertainment visas and more aggressive investigation and prosecution of offenders. The country remained a destination and transit country for men, women, and children trafficked for commercial sexual exploitation and other purposes. Victims came from China, the Republic of Korea, Southeast Asia, Eastern Europe, and to a lesser extent Latin America. There were also reports of internal trafficking of girls for sexual exploitation.

Brokers in the countries of origin recruited women and sold them to intermediaries or employers, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation often had connections with organized crime.

Most women trafficked into the sex trade had their travel documents taken away and their movements strictly controlled by their employers. Victims were threatened with reprisals to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. NGOs reported that in some cases brokers used drugs to subjugate victims.

Debt bondage was another means of control. Before arrival in the country, trafficking victims generally did not understand the size of the debts they would owe, the amount of time it would take them to repay the debts, or the conditions of employment to which they would be subjected upon arrival. Women typically faced debts of \$26,000 to \$43,000 (three million to five million yen). In addition, they had to pay their employer for their living expenses, medical care (when provided by the employer), and other necessities. "Fines" for misbehavior added to the original debt and the process that employers used to calculate these debts was not transparent. Employers also sometimes "resold," or threatened to resell, troublesome women or women found to be HIV positive, thereby increasing the victims' debts and often leading to even worse working conditions.

In response to increased police enforcement, many sex business operators shifted from store-front businesses to "delivery" escort services. This made it much harder to

measure the extent to which employers were exploiting victims of trafficking.

NGOs and the media reported abuses of the "foreign trainee" program, a government-sponsored training program supervised by the Japan International Training Cooperation Organization. In some companies, trainees reportedly were forced to work unpaid overtime and made less than the minimum wage. Moreover, their wages were automatically deposited in company-controlled accounts, despite the fact that "forced deposits" are illegal. According to labor rights NGOs, trainees sometimes had their travel documents taken from them and their movement controlled to "prevent escape." A government review of the program was ongoing, and in December the Ministry of Justice amended the guidelines governing organizations that accept trainees and interns to prevent further abuses.

There were significant improvements in the country's prosecution of trafficking offenders. In 2006, 78 trafficking suspects were arrested, 17 cases prosecuted, and 15 trafficking offenders convicted under the trafficking statute. This was a significant increase from the few prosecutions and one conviction obtained in 2005. Of the 15 convictions in 2006, 12 offenders received prison sentences ranging from one to seven years; three offenders received suspended sentences.

The NPA oversaw significant improvements in police handling of trafficking cases and identification of victims. Nevertheless, there continued to be reports that police and immigration officers failed to identify victims adequately. For example, NGOs reported that police and immigration officers occasionally neglected to classify women working in exploitative conditions as victims because they willingly entered the country to work illegally.

The MHLW encouraged police and immigration officers to use its preexisting network of shelters for domestic violence victims as temporary housing for foreign trafficking victims awaiting repatriation. The government paid for victims' medical care and subsidized repatriation through a grant to the International Organization for Migration (IOM). The MHLW reported that in FY 2006, 36 women were protected in private and public shelters, and IOM representatives helped 41 women return home with the government's support.

Typically, government shelters lacked the resources needed to provide adequate services to trafficking victims. NGO shelters that specialized in assisting victims of human trafficking had full-time staff able to speak seven or more languages, but the MHLW shelters had to rely on interpretation services from outside providers. Without sufficient counseling in their native language by professionals familiar with the special needs of trafficking victims, foreign women staying at government shelters elected to repatriate as quickly as possible. Although the government reserved funds to subsidize victims' stays in private shelters, the majority of victims were referred to public shelters.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the government generally enforced these provisions effectively. The government supported the right of persons with disabilities to participate in civic affairs.

Persons with disabilities were not generally subject to overt discrimination in employment, education, or provision of other state services; however, in practice they faced limited access to these services. Persons with disabilities made up less than 0.2 percent of university students.

The law mandates that the government and private companies hire minimum proportions of persons with disabilities (including mental disabilities). Companies with more than 300 employees that do not comply must pay a fine of \$425 (50,000 yen) per vacant position per month. Public employment of persons with disabilities exceeded the minimum, but according to MHLW statistics the private sector lagged in spite of increases over last year.

In December 2006 revisions to accessibility laws mandated that new construction projects for public use must include provisions for persons with disabilities. In addition, the government allows operators of hospitals, theaters, hotels, and other public-use facilities to receive low-interest loans and tax benefits if they upgrade or install features to accommodate persons with disabilities.

National/Racial/Ethnic Minorities

Burakumin (descendants of feudal era "outcasts") and ethnic minorities experienced varying degrees of societal discrimination. The approximately three million burakumin, although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing, education, and employment opportunities. NGOs reported that discrimination was still extensive outside major metropolitan areas.

Despite legal safeguards against discrimination, the country's large populations of Korean, Chinese, Brazilian, and Filipino permanent residents--many of whom were born, raised, and educated in Japan--were subject to various forms of deeply entrenched societal discrimination, including restricted access to housing, education, and employment opportunities. There was a widespread perception among citizens that "foreigners," often members of Japan-born ethnic minorities, were responsible for most of the crimes committed in the country. The media fostered this perception although Ministry of Justice statistics showed that the "foreigner"--committed crime rate, excepting crimes like illegal entry and overstay, was lower than the crime rate for citizens.

Many immigrants struggled to overcome obstacles to naturalization, including the broad discretion available to adjudicating officers and the great emphasis on Japanese-language ability. Aliens with five years of continuous residence are eligible for naturalization and citizenship rights. Naturalization procedures also require an extensive background check, which includes inquiries into the applicant's economic status and assimilation into society. The government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society.

Indigenous People

The 1997 Law for the Promotion of the Ainu Culture and Dissemination and Advocacy for the Traditions of the Ainu and the Ainu Culture (Culture Promotion Law) recognized the Ainu as an ethnic minority, required all prefectural governments to develop basic programs for promoting Ainu culture and traditions, canceled previous laws that discriminated against the Ainu, and required the government of Hokkaido to return Ainu communal assets. Although the Ainu enjoyed the same rights as all other citizens, when clearly identifiable as Ainu they faced the same patterns of discrimination that all ethnic minorities encountered.

Other Societal Abuses and Discrimination

There were no reports of societal violence or discrimination based on sexual orientation or against persons with HIV/AIDS.

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 the government effectively enforced the law. Unions were free of government control and influence; however, public service employees' basic union rights, governed by a separate law, are considerably restricted in ways that "effectively require prior authorization" to form unions. Approximately 18 percent of the total workforce was unionized in 2006.

b. The Right to Organize and Bargain Collectively

Except for public sector workers and employees of state-owned enterprises, the law allows unions to conduct their activities without interference, and the government protected this right. Collective bargaining is protected by law and was freely practiced. Unions have the right to strike, and workers exercised 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 reports that such practices occurred. Labor rights NGOs alleged that some companies forced foreign laborers to work illegal overtime, refused to pay them allowances, controlled their movement and travel documents, and forced them to deposit paychecks into company-controlled accounts. The law and Ministry of Justice guidelines prohibit these practices.

d. Prohibition of Child Labor and Minimum Age for Employment

The law bans the exploitation of children in the workplace, and the government effectively implemented the law. The MHLW is responsible for enforcement. By law, children between the ages of 15 and 18 may perform any job that is not designated as dangerous or harmful. Children between the ages of 13 and 15 may perform "light labor" only, and children under 13 may work only in the entertainment industry. Other than victims of human trafficking and child pornography, child labor was not a problem.

e. Acceptable Conditions of Work

Minimum wages are set on a prefectural and industry basis, with the input of tripartite (workers, employers, and public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages was considered widespread. Minimum wage rates ranged, according to prefecture, from \$5.74 (618 yen) to \$6.54 (739 yen) per hour. The minimum daily wage provided a decent standard of living for a worker and family.

The law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked above 40 in a week or eight in a day. However, it was widely accepted within the population that workers, including those in government jobs, routinely exceeded the hours outlined in the law. Labor unions frequently criticized the government for failing to enforce maximum working hour regulations.

According to the Trade Union Confederation, companies increasingly hire workers on a part-time, non-regular basis. Such workers reportedly made up one-third of the labor force, and worked for lower wages, enduring insecure working conditions. Temporary employees reportedly also faced the same unfair working conditions. Activist groups claimed that employers exploited illegal foreign workers, who often had little or no knowledge of the Japanese language or their legal rights.

The government sets occupational health and safety standards, and the Ministry of Labor effectively administered the various laws and regulations governing occupational health and safety. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Kiribati

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Kiribati is a constitutional multiparty republic with a population of approximately 92,500. The president exercises executive authority and is popularly elected for a four-year term. The legislative assembly nominates at least three, and no more than four, presidential candidates from among its members. Parliamentary and presidential elections held in August and October, respectively, were considered generally free and fair. Anote Tong of the Boutokaana Te Koaua party was reelected president. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Government corruption, violence and discrimination against women, child abuse, and commercial sexual exploitation of children were problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports 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 constitution prohibits such practices, and there were no reports that government officials employed them. Traditional village practice permits corporal punishment for criminal acts and other transgressions. On some outer islands, village associations occasionally ordered strokes with palm fronds to be administered for public drunkenness and other minor offenses, such as petty theft. There were no reports of more severe forms of communal justice, such as beatings or banishments, during the year.

Prison and Detention Center Conditions

Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. There was no separate facility for juvenile offenders, but children under age 16 usually were not incarcerated. Juveniles age 16 to 17 generally may be detained no longer than a month in the adult facility; however, for more serious offenses, such as murder, juveniles over age 16 can be held in custody for more than a month and can be sentenced to longer terms. Pretrial detainees accused of serious offenses who did not meet bail were held with convicted prisoners. Persons charged with minor offenses normally were released on their own recognizance pending trial.

Family members and church representatives were allowed access to prisoners. Diplomats and senior judicial officials visited the prisons, including some unannounced visits, and reported no problems.

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 commissioner of police and prisons, who reports directly to the Office of the President, heads the police force, which was reasonably effective in maintaining law and order. Police corruption and impunity generally were not serious problems. The police commissioner is responsible for investigating allegations of police misconduct, and police officers have occasionally been dismissed.

Arrest and Detention

In some cases magistrates issued warrants before an arrest was made. Persons taken into custody without a warrant must be brought before a magistrate within 24 hours or within a reasonable amount of time when arrested in remote locations. These requirements were generally respected in practice. Many individuals were released on their own recognizance pending trial, and bail was granted routinely for many offenses. The law requires that arrested individuals be informed of their rights, which include the right to legal counsel during questioning and the right not to incriminate themselves. Two police officers must be present at all times during questioning of detainees, who also are provided the option of writing and reviewing statements given to police. Detainees were allowed prompt access to legal counsel. Public defenders, known as "people's lawyers," were available free of charge for arrested persons and other needed legal advice.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

The judiciary consists of magistrates' courts, the High Court, and the Court of Appeal.

Trial Procedures

The constitution provides for the right to a fair public trial, and an independent judiciary generally enforced this right. There is no trial by jury. An accused person must be

informed of the charges and be provided adequate time and facilities to prepare a defense. The law also provides for the right to confront witnesses, present evidence, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation. Procedural safeguards are based on British common law and include the presumption of innocence until proven guilty.

Extrajudicial traditional communal justice, in which village elders decide cases and mete out punishment, remained a part of village life, especially on remote outer islands. In the past there were reports that in extreme cases, those deemed guilty were banished from an island or even killed, but there were no reports of such actions during the year. The incidence of communal justice was declining under pressure from the codified national law.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, as well as access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, but there were some concerns about government control of the media and limits on press freedom.

Individuals generally could criticize the government publicly or privately without fear of reprisal.

The government Broadcasting and Publications Authority (BPA) operates Radio Kiribati, the dominant media source in the country. There is one other radio station, owned by a member of parliament (MP) affiliated with the governing party. Shortly before the second round of parliamentary elections in August, the BPA prohibited a prominent opposition politician from making a speech on the government-owned station.

International media were allowed to operate freely. Under the Newspaper Registration Act, newspapers are required to register with the government, but there were no reports that the government denied registration to any publication.

Internet Freedom

There were no government restrictions on the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. While generally available and accessible on South Tarawa, public access to the Internet elsewhere in the country was limited by lack of infrastructure.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

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 were no reports of societal abuses or discrimination against religious groups, including anti-Semitic acts. There was no known Jewish community in the country.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Although the law prohibits government restrictions on citizens' freedom of movement, it does not restrict such actions by traditional village councils.

The law provides for the forced expulsion from the country of a convicted person if "in the interests of" defense, public safety, order, morality, health, or environmental conservation. The government did not use forced exile; however, on rare occasions traditional village councils have banished persons from a specific island within the country, usually for a fixed period of time. The legality of this form of punishment has never been challenged.

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. During the year there were no applications for refugee resettlement, asylum, or protection from refoulement, the return of persons to a country where there was reason to believe they feared persecution. The country had no formal association with the Office of the UN High Commissioner for Refugees.

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

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

Elections and Political Participation

The legislature has 45 members: 43 are elected by universal adult suffrage, the Rabi Island council of I-Kiribati (persons of Kiribati ancestry) in Fiji selects one, and the attorney general is an ex officio member. The most recent parliamentary elections were held in August. In October Anote Tong of the Boutokaan Te Koaua party was elected to a second term as president. The elections were considered generally free and fair. The government party held 26 legislative seats, the opposition held seven, and independents held 12. There were no government restrictions on political opponents. Elected village councils run local governments in consultation with traditional village elders.

There were two women in the 45-member legislature. Several permanent secretaries were women. No women sat on the High Court.

The president and several members of the legislature were of mixed descent.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, but the government did not implement the law effectively. Government officials have sometimes engaged in corrupt practices with impunity, but there were no specific reports of government corruption during the year.

Nepotism, based on tribal, church, and family ties, was prevalent. Public officials were not subject to financial disclosure laws. The auditor general (AG) is responsible for oversight of government expenditures. In reality the AG lacked sufficient resources, and findings of misappropriations and unaccounted-for funds were generally ignored, or the investigations were inconclusive.

No specific law provides for citizen or media access to government information. In practice the government was fairly responsive to individual requests for information.

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

There were no restrictions on the formation of local human rights nongovernmental organizations (NGOs), but none have been formed. There were no restrictions on operations by international human rights groups. Government officials were cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of race, national origin, or color, and the government observed these prohibitions in practice; however, only native I-Kiribati may own land.

Women

Spousal abuse and other forms of violence against women were significant problems. Alcohol abuse frequently was a factor in attacks on women. Rape, including spousal rape, is a crime, with a maximum penalty of life imprisonment, but sentences were typically much shorter. The law does not address domestic violence specifically, but general common law and criminal law make assault in all forms illegal. The law provides for penalties of up to six months' imprisonment for common assault and up to five years' imprisonment for assault involving bodily harm. Prosecutions for rape and domestic assault were infrequent, largely due to cultural taboos on reporting such crimes and police attitudes encouraging reconciliation over prosecution.

Prostitution is not illegal; however, procuring sex and managing brothels are illegal. The lack of a law against prostitution hindered the ability of the police to restrict these activities.

The law does not specifically prohibit sex tourism. There were reports of foreign fishermen engaging in commercial sexual acts with minors. Obscene or indecent behavior is banned.

The law does not prohibit sexual harassment, which sometimes occurred but generally was not regarded as a major problem.

The law does not prohibit discrimination on the basis of gender, and the traditional culture, in which men are dominant, impeded a more active role for women in the economy. Nevertheless, women were slowly finding work in unskilled and semiskilled occupations. Women filled many government office and teaching positions. The law prohibits night work by women except in certain specified occupations, including health worker, pharmacist, business manager, theater employee, and hotel, bar, and restaurant worker; however, there were no reported prosecutions based on this ordinance. Statistics generally were not well collected in the country, and data on the participation of women in the work force and on comparative wages were unavailable. Women have full rights of ownership and inheritance of property as well as full and equal access to education.

Children

Within its limited financial resources, the government made adequate expenditures for child welfare. Primary education is compulsory, free, and universal for children between the ages of six and 14 years. In practice the government did not enforce primary school attendance. According to the Department of Statistics, 93.5 percent of all school-age children attended primary school. Boys and girls had similar attendance rates. The approximately 40 percent of primary school graduates who pass a national examination qualify for three additional years of subsidized junior secondary and four years of subsidized senior secondary education; a small fee was charged to other students who wished to matriculate at these levels.

The government provided free medical services for children. Boys and girls had equal access to such care.

Chronic alcohol abuse leading to child abuse (physical and occasionally sexual) and neglect continued to be a serious problem. There is a police unit specifically focused on child and family violence.

Crewmembers of foreign fishing vessels that stopped in Kiribati engaged in commercial sexual exploitation of underage girls. UN and NGO reports estimated that 20 to 80 girls were involved in such prostitution. Some of the girls worked as prostitutes in bars frequented by crewmembers, and local I-Kiribati acted as facilitators, delivering girls to the boats. The girls generally received cash, food, or goods in exchange for sexual services. The lack of a legal ban on prostitution, and the fact that the legal age of consent is 15, hindered police efforts to stem the practice.

Trafficking in Persons

The law prohibits trafficking in persons, and there were no reports that persons were trafficked to or from the country. There were incidences of commercial sexual exploitation of underage girls within the country.

Persons with Disabilities

The law does not specifically prohibit discrimination against persons with disabilities; however, there were no formal complaints of discrimination in employment, education, or the provision of other state services for persons with mental or physical disabilities. Accessibility of buildings for persons with disabilities has not been mandated, and there were no special accommodations for persons with disabilities. The central hospital on Tarawa had a wing for persons with mental disabilities, and there was a psychiatrist working on Tarawa.

There was no government agency specifically responsible for protecting the rights of persons with disabilities. Government officials provided some informal, case-by-case assistance to voters with disabilities during the 2007 elections.

Other Societal Abuses and Discrimination

Sodomy and acts of "gross indecency" between males are illegal, but there were no reports of prosecutions under these provisions. Societal discrimination and violence based on sexual orientation and against persons with HIV/AIDS were not significant problems. A government-run HIV/AIDS taskforce coordinated outreach and education activities concerning HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

The constitution provides for freedom of association, and workers are free to join and organize unions; workers exercised these rights in practice.

More than 80 percent of the adult workforce was occupied in fishing or subsistence farming. An estimated 10 percent of wage-earning workers were union members. There were no official public sector trade unions, but nurses and teachers belonged to voluntary employee associations similar to unions and constituted approximately 30 to 40 percent of total union and association membership.

b. The Right to Organize and Bargain Collectively

The law protects workers from employer interference in their right to organize and administer unions. The government did not control or restrict union activities; however, unions must register with the government. The law provides for collective bargaining. The government sets wages in the large public sector. In a few statutory bodies and government-owned companies, however, employees could negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers. In keeping with tradition, negotiations generally were nonconfrontational. There were no reports of antiunion discrimination, and there were mechanisms to resolve any complaints that might arise.

The law provides for the right to strike, but no strikes have taken place since 1980.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred. The prohibition does not mention specifically forced and compulsory labor by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under age 14. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Labor officers from the Ministry of Labor and Human Resources Development generally enforced these laws effectively. Children rarely were employed outside the traditional economy.

Underage girls were solicited for commercial sex.

e. Acceptable Conditions of Work

The wage-earning workforce consisted of approximately 8,000 persons, mostly employed on the main atoll of Tarawa, the political and commercial capital. The remainder of the working population worked within a subsistence economy. There is no official minimum wage, but the Labor Ministry estimated the "non-legislated" minimum to be between \$1.44 and \$1.53 (A\$1.60 to A\$1.70) per hour. There is provision for a minimum wage at ministerial discretion, but it has never been implemented. Income tended to be pooled within individual extended families. The standard wage income provided a marginally decent standard of living for a worker and family. There is no legislatively prescribed workweek. Workers in the public sector (80 percent of the wage-earning workforce) worked 36¼ hours per week, with overtime pay for additional hours.

Employment laws provide rudimentary health and safety standards for the workplace. For example, employers must provide an adequate supply of clean water for workers and ensure the availability of sanitary toilet facilities. Employers are liable for the expenses of workers injured on the job, but a lack of qualified personnel hampered the government's ability to enforce employment laws. Workers do not have the right to remove themselves from hazardous work sites without risking loss of employment.





Korea, Democratic People's Republic of

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

The Democratic People's Republic of Korea (DPRK or North Korea) is a dictatorship under the absolute rule of Kim Jong-il, general secretary of the Korean Workers' Party (KWP) and chairman of the National Defense Commission (NDC), the "highest office of state." The country has an estimated population of 23.1 million. Kim's father, the late Kim Il-sung, remains "eternal president." Local elections held in July were not free or fair. There was no civilian control of the security forces, and members of the security forces committed numerous serious human rights abuses.

The government's human rights record remained poor, and the regime continued to commit numerous serious abuses. The regime subjected citizens to rigid controls over many aspects of their lives. Articles of the constitution that require citizens to follow "socialist norms of life" and to obey a "collective spirit" took precedence over individual political and civil liberties. Citizens did not have the right to change their government. There continued to be reports of extrajudicial killings, disappearances, and arbitrary detention, including of political prisoners. Prison conditions were harsh and life-threatening, and torture occurred. Pregnant female prisoners underwent forced abortions in some cases, and in other cases babies were killed upon birth in prisons. The judiciary was not independent and did not provide fair trials. Citizens were denied freedom of speech, the press, assembly, and association, and the government attempted to control all information. The government restricted freedom of religion, citizens' movement, and worker rights. There continued to be reports of severe punishment of some repatriated refugees. There were widespread reports of trafficking in women and girls among refugees and workers crossing the border into China.

RESPECT FOR HUMAN RIGHTS

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

Arbitrary and Unlawful Deprivation of Life

There were numerous reports that the regime committed arbitrary and unlawful killings. Defector and refugee reports indicated that in some instances the regime executed political prisoners, opponents of the regime, repatriated defectors, and others, including military officers suspected of espionage or of plotting against Kim Jong-il. The law prescribes the death penalty for the most "serious" or "grave" cases of "anti-state" or "anti-nation" crimes, including: participation in a coup or plotting to overthrow the state; acts of terrorism for an anti-state purpose; treason, which includes defection or handing over state secrets; suppressing the people's movement for national liberation; cutting electric power lines or communication lines; and illegal drug transactions.

In the past border guards reportedly had orders to shoot to kill potential defectors, and prison guards were under orders to shoot to kill those attempting to escape from political prison camps, but it was not possible to determine if this practice continued during the year.

During the year a North Korean defector who escaped from a political prison camp in 2005 reported that in 1996 he was forced to watch the public execution of his mother and brother for attempting to escape from the camp.

A South Korean nongovernmental organization (NGO) reported that in October the head of a factory in South Pyongan province was executed by a firing squad in a stadium before a crowd of 150,000 for making international calls on 13 phones he installed in a factory basement.

Religious and human rights groups outside the country alleged that some North Koreans who had contact with foreigners across the Chinese border were imprisoned or killed. In recent years anecdotal evidence from refugees suggested that refugees forcibly repatriated from China were generally treated less harshly than in past years, but during the year several sources indicated that the DPRK reversed this more lenient policy.

There were no new developments in the alleged 2006 death penalty sentence for Son Jong-nam, whose brother reported that Son was still alive as of the spring.

Disappearance

The government was responsible for disappearances. In recent years defectors claimed that state security officers often apprehended individuals suspected of political crimes and sent them, without trial, to political prison camps. There are no restrictions on the ability of the government to detain and imprison persons at will and to hold them incommunicado. The penal code states that a prosecutor's approval is required to detain a suspect; however, the government ignored this law in practice.

There were no developments in the 2006 disappearance of Lee Kwang-soo's family following his defection to South Korea (Republic of Korea or ROK).

Japan continued to seek further information about the cases of 12 officially designated Japanese nationals believed to have been abducted by DPRK government entities, despite the DPRK's insistence that the 12 were either dead or were never in North Korea. Japan also hoped to gain answers regarding other cases of suspected abductions of Japanese nationals.

In the past, credible reports indicated that the government also kidnapped other nationals from locations abroad, including citizens from Romania, Thailand, and possibly elsewhere. However, the government continued to deny its involvement in the kidnappings. The South Korean government estimated that approximately 480 of its civilians who were abducted or detained by the DPRK since the end of the Korean War remained in the DPRK. The South Korean government estimated 560 South Korean prisoners of war (POWs) and soldiers missing in action were also believed to remain alive in the country.

The whereabouts of defector Kang Gun remained unknown. In 2005 Amnesty International reported that Kang may have been kidnapped from China by North Korean agents.

In May media reported that the wife of South Korean missionary Kim Dong-shik believed Kim had most likely died within a year of his disappearance near the China-DPRK border in 2000.

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The penal code prohibits torture or inhumane treatment; however, many sources continued to confirm its practice. According to an April report by Freedom House,

prisoners in political prison camps were regularly subjected to beatings and sometimes more systematic torture for infractions of prison camp regulations. Methods of torture and other abuse reportedly included severe beatings, electric shock, prolonged periods of exposure to the elements, humiliations such as public nakedness, confinement for up to several weeks in small "punishment cells" in which prisoners were unable to stand upright or lie down, being forced to kneel or sit immobilized for long periods, being hung by the wrists, being forced to stand up and sit down to the point of collapse, and forcing mothers recently repatriated from China to watch the infanticide of their newborn infants. Defectors continued to report that many prisoners died from torture, disease, starvation, exposure to the elements, or a combination of these causes.

During the year Shin Dong-hyuk, a defector born and confined in a political prison camp in Kaechon in South Pyongan Province for 22 years, explained that beatings and torture were a common occurrence within the camp. Shin reported that he was tortured with hot coals while being hung from the ceiling after members of his family tried to escape from the camp.

In 2006 a defector reported that, upon his repatriation from China in 2000, authorities forced him to crouch for long periods of time with a wooden pole placed between his calves and thighs; while crouching, booted guards would stomp on the top of his legs, crushing his toes and hyperextending his knees. He also reported that interrogators forced him to kneel forward onto fire-heated iron plates.

In 2005 a defector reported that she lost the use of her feet due to severe beatings she received from police for attempting to leave the country.

Over the years there have been unconfirmed reports from a few defectors alleging the testing on human subjects of a variety of chemical and biological agents through the early 1990s.

Officials prohibited live births in prison and ordered forced abortions, particularly in detention centers holding women repatriated from China, according to refugee reports. In some cases of live birth, prison guards killed the infant or left it for dead, according to defectors. In addition guards reportedly sexually abused female prisoners.

Re-education through labor, primarily through sentences at forced labor camps, was a common punishment and consisted of forced labor such as logging, mining, or tending crops under harsh conditions. Re-education involved memorizing speeches by Kim Jong-il and forced self-criticism sessions focused on work performance.

Prison and Detention Center Conditions

NGO, refugee, and press reports indicated that there were several types of centers and camps, including forced labor camps and separate camps for political prisoners. Using commercial satellite imagery to bolster their assertions about the existence of the camps and point out their main features, defectors claimed the camps covered areas as large as 200 square miles. The camps appeared to contain mass graves, barracks, work sites, and other prison facilities.

Those sentenced to prison for nonpolitical crimes were typically sent to reeducation prisons where prisoners were subjected to intense forced labor. Those who were considered hostile to the regime or who committed political crimes, such as defection, were sent to political prison camps indefinitely. Many prisoners in political prison camps were not expected to survive. The government continued to deny the existence of political prison camps.

Reports indicated that conditions in the political prison camps were harsh. Systematic and severe human rights abuses occurred throughout the prison and detention system. Detainees and prisoners consistently reported violence and torture. According to refugees, in some places of detention, prisoners received little or no food and were denied medical care. Sanitation was poor, and former labor camp inmates reported they had no changes of clothing during their incarceration and were rarely able to bathe or wash their clothing.

The government did not permit inspection of prisons or detention camps by human rights monitors.

Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but the government did not observe these prohibitions in practice.

Role of the Police and Security Apparatus

The internal security apparatus includes the Ministry of Public Security (MPS) and the State Security Department (SSD). Reports of diversion of food aid to the military and regime officials and of official quid-pro-quo bribery were indicative of corruption in the security forces. The security forces do not have adequate mechanisms to investigate possible security force abuses.

Kim Jong-il is the Supreme Commander of the Korean People's Army (KPA) and Chairman of the National Defense Commission. The army has four branches: Ground Force, Naval Force, Air Force, and Civil Securities Force. The country has an estimated 1.21 million active personnel, in addition to a reserve force of approximately 4.7 million personnel.

Arrest and Detention

Members of the security forces arrested and transported citizens suspected of committing political crimes to prison camps without trial.

There were no restrictions on the government's ability to detain and imprison persons at will or to hold them incommunicado. Family members and other concerned persons found it virtually impossible to obtain information on charges against detained persons or the lengths of their sentences. Judicial review of detentions did not exist in law or in practice.

In some cases entire families, including children, were imprisoned when one member of the family was accused of a crime.

Denial of Fair Public Trial

The constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary did not exist. The constitution mandates that the central court is accountable to the Supreme People's Assembly, and the criminal code subjects judges to criminal liability for handing down "unjust judgments." Furthermore, individual rights are not acknowledged.

Trial Procedures

The MPS dispensed with trials in political cases and referred prisoners to the SSD for punishment. Little information was available on formal criminal justice procedures and practices, and outside access to the legal system was limited to show trials for traffic violations and other minor offenses.

The constitution contains elaborate procedural protections, providing that cases should be heard in public, except under circumstances stipulated by law. The constitution also states that the accused has the right to a defense, and when trials were held, the government reportedly assigned lawyers. Some reports noted a distinction between those accused of political, as opposed to nonpolitical, crimes and claimed that the government offered trials and lawyers only to the latter. There was no indication that

independent, nongovernmental defense lawyers existed.

Political Prisoners and Detainees

An estimated 150,000 to 200,000 persons were believed to be held in political prison camps in remote areas. The government considered critics of the regime to be political criminals. Reports from past years described political offenses as including sitting on newspapers bearing Kim Il-sung's or Kim Jong-il's picture, mentioning Kim Il-sung's limited formal education, or defacing photographs of the Kims. The number of political prisoners and detainees remained unknown. In some cases, citizens forcibly returned from China were subjected to hard labor in political prison camps.

Civil Judicial Procedures and Remedies

According to article 69 of the constitution, "[c]itizens are entitled to submit complaints and petitions. The state shall fairly investigate and deal with complaints and petitions as fixed by law." Under the Law on Complaint and Petition, citizens are entitled to submit complaints to stop encroachment upon their rights and interests or seek compensation for the encroached rights and interests.

Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution provides for the inviolability of person and residence and the privacy of correspondence; however, the government did not respect these provisions in practice. The regime subjected its citizens to rigid controls. The government relied upon a massive, multilevel system of informants to identify critics and potential troublemakers. Entire communities sometimes were subjected to security checks. Possessing "anti-state" material and listening to foreign broadcasts were crimes that could subject the transgressor to harsh punishments, including up to five years of labor reeducation.

The government monitored correspondence and telephone conversations. Private telephone lines operated on a system that precluded making or receiving international calls; international phone lines were available only under restricted circumstances. Foreign diplomats in Pyongyang stated that the local network was subdivided so phone use remained a privilege. Although a government-controlled cellular phone network existed, cell phone use has been banned for the general population since 2004. However, visitors to Pyongyang continued to report limited cell phone usage. NGOs also reported that migrants obtained cell phones in China and used them on a limited basis in border areas on the Chinese network. During the year defectors reported contacting their relatives in the country via this network.

Allegations continued to circulate that imprisonment and execution had been ordered for individuals who made statements at home that were critical of the regime.

The government divided citizens into loyalty-based classes, which determined access to employment, higher education, place of residence, medical facilities, and certain stores. The UN Special Rapporteur reported in 2005 that "while this practice may have been abolished by law, it seems to persist and is implied by the testimonies of those who leave the country in search of refuge elsewhere."

Collective punishment was practiced. Entire families, including children, have been imprisoned when one member of the family was accused of a crime. The 2006 decree on cutting electric power or communication lines and illegal drug transactions states that a violator's family shall be "expelled."

Section 2 Respect for Civil Liberties, Including:

Freedom of Speech and Press

The constitution provides for freedom of speech and of the press; however, the government prohibited the exercise of these rights in practice. There were no developments in the case of the 21 cheerleaders who were imprisoned in the Daeheung prison camp, reportedly for discussing upon their return to the country what they had seen in the ROK at the 2002 Busan Asian Games. According to the UN special rapporteur's 2006 report, the government banned discussion of Kim Jong-il's succession at the end of 2005, after media speculation on the topic.

The constitution provides for the right to petition. However, the government did not respect this right. For example, when anonymous petitions or complaints about state administration were submitted, the SSD and MPS sought to identify the authors, who could be subjected to investigation and punishment.

The government sought to control virtually all information. There were no independent media. The government carefully managed visits by foreigners, especially foreign journalists.

On occasion, when it served its agenda, the government allowed foreign media to cover certain events. During visits by foreign leaders, groups of foreign journalists were permitted to accompany official delegations and to file reports. In all cases journalists were strictly monitored. They generally were not allowed to talk to officials or to persons on the street, and cellular or satellite phones were held at the airport for the duration of a visitor's stay. In October ROK reporters were allowed to travel to Pyongyang to cover the second inter-Korean summit. The ROK press also was permitted to cover the inter-Korean rail tests in May.

In previous years there were cases of foreign media personnel being denied access to the country or being asked to leave the country because the government deemed news content to be offensive. In 2006 a group of 24 South Korean reporters covering family reunions at Mt. Kumgang left in protest after officials prevented two broadcasters from transmitting stories and asked one reporter to leave the country. Reporters Without Borders reported that in 2006 North Korean authorities blocked the arrival of 200 ROK journalists to the Kaesong Industrial Complex after the ROK press criticized the country's decision to halt a railroad project between the two countries.

Domestic media censorship continued to be enforced strictly, and no deviation from the official government line was tolerated. The government prohibited listening to foreign media broadcasts except by the political elite, and violators were subject to severe punishment. Radios and television sets, unless altered, received only domestic programming; radios obtained from abroad must be altered to operate in a similar manner. The government continued to attempt to jam all foreign radio broadcasts. In 2006 the government condemned the activities of a defector-run broadcasting station in South Korea and unsuccessfully petitioned ROK authorities to shut down the organization.

Internet Freedom

Internet access for citizens was limited to high-ranking officials and other designated elites, including select university students. This access was granted via international telephone lines through a provider in China, as well as a local connection that was linked with a German server. NGO and press reports claimed that there was an "intranet," available to a slightly larger group of users, including an elite grade school; selected research institutions, universities, and factories; and a few individuals. The Korean Communication Corporation acted as the gatekeeper, downloading only acceptable information for access through the intranet. Reporters Without Borders reported that some e-mail access existed through this internal network. According to a press report, an increasing number of citizens had e-mail addresses on their business cards, though they were usually e-mail addresses shared among all the employees of an organization.

Academic Freedom and Cultural Events

The government restricted academic freedom and controlled artistic and academic works. A primary function of plays, movies, operas, children's performances, and books was to buttress the cult of personality surrounding Kim Il-sung and Kim Jong-il.

According to North Korean media, Kim Jong-il frequently told officials that ideological education must take precedence over academic education in the nation's schools. Indoctrination was carried out systematically through the mass media, schools, and worker and neighborhood associations. Indoctrination continued to involve mass marches, rallies, and staged performances, sometimes including hundreds of thousands of persons.

The government continued its attempt to limit foreign influences on its citizens. Listening to foreign radio and watching foreign films is illegal; however, numerous NGOs reported that Chinese and South Korean DVDs continued to be smuggled into the country. The government intensified its focus on preventing the smuggling of imports of South Korean popular culture, especially television dramas. According to a media report, in an attempt to enforce the restriction on foreign films, police routinely cut electricity to apartment blocks and then raided every apartment to see what types of DVDs were stuck in the players. In July the government also ordered the closure of karaoke bars in an attempt to curb outside influences on the population.

Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly; however, the government did not respect this provision in practice and continued to prohibit public meetings without prior authorization.

Freedom of Association

The constitution provides for freedom of association; however, the government failed to respect this provision in practice. There were no known organizations other than those created by the government. Professional associations existed primarily to facilitate government monitoring and control over organization members.

Freedom of Religion

The constitution provides for "freedom of religious belief"; however, in practice the government severely restricted religious freedom unless supervised by officially recognized groups linked to the government. The law also stipulates that religion "should not be used for purposes of dragging in foreign powers or endangering public security." Genuine religious freedom did not exist.

The personality cult of Kim Il-sung and Kim Jong-il continued to resemble a state religion that provided a spiritual underpinning for the regime. Refusal to accept the leader as the supreme authority was regarded as opposition to the national interest and continued to result in severe punishment. In his 2006 report, the UN Special Rapporteur on the Situation of Human Rights in the DPRK observed that "the regime's emphasis is to inculcate religiously upon the people from a young age a belief in and total adherence to the past and current political leadership, coupled with massive ideological mobilization akin to cult worship."

The 2006 Korea Institute for National Unification's White Paper on Human Rights in North Korea concluded that the regime used authorized religious entities for external propaganda and political purposes and strictly barred local citizens from entering places of worship. For example, funds and goods that were donated to government-approved churches were channeled to the KWP by the government.

There were unconfirmed reports that the nonreligious children of religious believers may be employed at midlevels of the government. In the past such individuals suffered broad discrimination with sometimes severe penalties or even imprisonment.

According to defector reports, the government was concerned that faith-based South Korean relief and refugee assistance efforts along the border had both humanitarian and political goals, including overthrow of the regime, and alleged that these groups were involved in intelligence gathering. According to an unconfirmed claim from one foreign religious NGO, nine North Korean nationals in its network disappeared during the year.

There continued to be reports of underground Christian churches. The government repressed and persecuted unauthorized religious groups in recent years. Defectors reported that persons engaged in religious proselytizing, persons with ties to overseas evangelical groups, and repatriated persons who contacted foreigners while outside the country were arrested and subjected to harsh punishment. During the year defectors asserted that citizens who received help from foreign churches were considered political criminals and received harsher treatment. This has included imprisonment, prolonged detention without charge, torture, and execution.

Religious and human rights groups outside the country continued to provide numerous unconfirmed reports that members of underground churches were beaten, arrested, detained in prison camps, tortured, or killed in prior years because of their religious beliefs.

Societal Abuses and Discrimination

There was no information on societal violence, harassment, or discrimination against members of religious groups.

There was no known Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for the "freedom to reside in or travel to any place"; however, the government did not respect this right in practice. During the year the government continued to attempt to control internal travel.

The government continued to restrict the freedom to move within the country. Only members of a very small elite class and those with access to remittances from overseas had access to personal vehicles, and movement was hampered by the absence of an effective transport network and by military and police checkpoints on main roads at the entry to and exit from every town. Use of personal vehicles at night and on Sundays was restricted. Violators of the new karaoke bar ban were reportedly warned that punishment could include relocation to other regions within the country.

The government strictly controlled permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions were much better than in the rest of the country.

The government also restricted foreign travel. The regime limited issuance of exit visas for foreign travel to officials and trusted businessmen, artists, athletes, academics, and religious figures. Short-term exit papers were available for some residents on the Chinese border to enable visits with relatives or to engage in small-scale trade.

It is not known whether the laws prohibit forced exile; the government forced the internal exile of some citizens. In the past the government engaged in forced internal resettlement to relocate tens of thousands of persons from Pyongyang to the countryside. Sometimes this occurred as punishment for offenses, although social engineering was also involved. For example, although disabled veterans were treated well, other persons with physical and mental disabilities, as well as those judged to be politically unreliable, have been sent out of Pyongyang into internal exile.

The government did not allow emigration, although officials in border areas reportedly took bribes from, or simply let pass, persons crossing the border into China without required permits. In prior years official media reported periodic crackdowns on this practice, with a stepped-up military presence along the border.

Substantial numbers of citizens have crossed the border into China over the years, and NGO estimates of those who lived there during the year ranged from tens of thousands to hundreds of thousands. Some settled semipermanently in northeastern China, others traveled back and forth across the border, and still others sought asylum and permanent resettlement in third countries. A few thousand citizens gained asylum in third countries during the year.

The law criminalizes defection and attempted defection, including the attempt to gain entry to a foreign diplomatic facility for the purpose of seeking political asylum. Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of five years of "labor correction." In "serious" cases defectors or asylum seekers are subject to indefinite terms of imprisonment and forced labor, confiscation of property, or death. Many would-be refugees who were returned involuntarily were imprisoned under harsh conditions. Some sources indicated that the harshest treatment was reserved for those who had extensive contact with foreigners. In 2006 China reported it had repatriated a North Korean asylum seeker known as Kim Chun-hee, despite requests from the international community to treat her humanely. Kim's whereabouts remained unknown. In 2006 Chinese police arrested and deported to North Korea nine relatives of South Korean POWs; one NGO reported that the nine were likely in prison, but their whereabouts remained unknown.

In the past, reports from defectors indicated that the regime differentiated between persons who crossed the border in search of food (who might be sentenced only to a few months of forced labor or in some cases merely issued a warning) and persons who crossed repeatedly or for political purposes (who were sometimes sentenced to heavy punishments). The law stipulates a sentence of up to two years of "labor correction" for the crime of illegally crossing the border. For example, a defector reported during the year that he and six others were sent to a political prison camp after being repatriated in 1999. At least one of the seven persons died in the camp following seven months of torture after her repatriation. According to the UN special rapporteur's 2005 report, there was a new policy to enable persons leaving the country for nonpolitical reasons to return with the promise of a pardon under the penal code.

During the year Human Rights Watch reported that the government had reversed a policy in place since 2000, under which punishment imposed on border-crossers had been relatively lenient. According to the report, between 2000 and 2004, many border-crossers were either released after questioning or served a few months at labor reeducation facilities, unless they had contact with missionaries or South Koreans. Several recent border-crossers reported in 2006 that upon their return to the country citizens caught crossing the border or repatriated from China were punished with longer sentences in more abusive prisons. Under the new policy, the government warned that everyone would be sent to prison. This trend continued during the year.

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, nor has the government established a system for providing protection for refugees. The government did not grant refugee status or asylum. The government did not cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The government had no known policy or provision for refugees or asylees and did not participate in international refugee fora.

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

Citizens do not have the right to change their government peacefully. The KWP and the KPA, with Kim Jong-il in control, dominated the political system. Little reliable information was available on intraregime politics. The legislature, the Supreme People's Assembly (SPA), meets only a few days per year to rubber-stamp resolutions presented by the party leadership.

The government justified its dictatorship with nationalism and demanded near deification of both Kim Jong-il and Kim Il-sung. All citizens remained subject to intensive political and ideological indoctrination, which was intended to ensure loyalty to the leadership and conformity to the state's ideology and authority.

Elections and Political Participation

Elections of delegates to the provincial, municipal, and county people's assemblies were held in July; the elections were not free and fair. The outcome was virtually identical to prior elections. The government openly monitored voting, resulting in nearly 100 percent participation and 100 percent approval.

The government has created several "minority parties." Lacking grassroots organizations, they existed only as rosters of officials with token representation in the SPA. The government regularly criticized the concept of free elections and competition among political parties as an "artifact" of "capitalist decay."

Women made up 20 percent of the membership of the SPA as of the 2003 elections, and approximately 4 percent of the membership of the KWP central committee.

The country is racially and ethnically homogenous. Officially there are no minorities, and there is, therefore, no information on minority representation in the government.

Government Corruption and Transparency

It is not known whether the law provides criminal penalties for official corruption, whether the government implemented any such laws effectively, and how often officials engaged in corrupt practices with impunity.

Reports of diversion of food aid to the military and government officials and of quid pro quo bribery were indicative of corruption in the government and security forces. The government continued to deny any diversion of food aid, although it hinted that it was combating internal corruption.

A credible NGO reported that, in a unique case, citizens in a border town petitioned the government regarding a corrupt government official. In response the government demoted but did not prosecute the official.

It is not known whether public officials are subject to financial disclosure laws and whether a government agency is responsible for combating corruption. There are no known laws that provide for public access to government information.

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

There were no independent domestic organizations to monitor human rights conditions or to comment on the status of such rights. The government's North Korean Human Rights Committee has denied the existence of any human rights violations in the country.

The government ignored requests for visits from international human rights NGOs. The NGO community and numerous international experts continued to testify to the grave human rights situation in the country during the year. The government decried international statements about human rights abuses in the country as politically motivated and as interference in internal affairs. The government asserted that criticism of its human rights record was an attempt by some countries to cover up their own abuses and that such hypocrisy undermined human rights principles.

The government emphasized that it had ratified most UN human rights instruments but continued to refuse cooperation with UN representatives. The government continued to prevent the UN special rapporteur on the situation of human rights in the DPRK, Vitit Muntarbhorn, from visiting the country to carry out his mandate. The

government continued to refuse to recognize the special rapporteur's mandate and rejected the offer of the Office of the High Commissioner on Human Rights to work with the government on human rights treaty implementation. In March the government's diplomats contended that allegations of human rights abuses were deliberately hostile provocations that infringed upon the country's sovereignty and dignity in a statement by the country's delegation at the fourth session of the UN Human Rights Council. In June the government rejected the 2006 UN General Assembly resolution and the extension of the special rapporteur's mandate in a letter to the UN Human Rights Council.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution grants equal rights to all citizens. However, the government has never granted its citizens most fundamental human rights in practice, and there continued to be pervasive discrimination on the basis of social status.

Women

The government appeared to criminalize rape, but no information was available on details of the law and how effectively the law was enforced. Women in prison camps reportedly were subject to rape and forced abortions.

Violence against women was a significant problem both inside and outside the home.

According to a press report, the revised penal code includes a new provision on prostitution that sentences those who engage in repeated acts of prostitution to up to two years of labor correction; there is no available information on the prevalence of prostitution in the country. There continued to be reports of trafficking in women and young girls who had crossed into China.

The constitution states that "women hold equal social status and rights with men"; however, although women were represented proportionally in the labor force, few women had reached high levels of the party or the government. An NGO reported that beginning in October, the government prohibited women under 40 from working in markets as part of a crackdown on trade activities.

Children

The state provides 11 years of free compulsory education for all children. However, in the past some children were denied educational opportunities and subjected to punishments and disadvantages as a result of the loyalty classification system and the principle of "collective retribution" for the transgressions of family members.

Foreign visitors and academic sources reported that from an early age, children were subjected to several hours a week of mandatory military training and indoctrination at their schools.

The UN Committee on the Rights of the Child has repeatedly expressed concern over de facto discrimination against children with disabilities and the insufficient measures taken by the state to ensure these children had effective access to health, education, and social services.

It is not known whether boys and girls have equal access to state-provided medical care; access to health care was largely dependent upon loyalty to the government.

Information about societal or familial abuse of children remained unavailable. There were reports of trafficking in young girls among persons who had crossed into China.

Trafficking in Persons

There were no known laws specifically addressing the problem of trafficking in persons, and trafficking of women and young girls into and within China continued to be widely reported. Some women and girls were sold by their families or by kidnappers as wives or concubines to men in China; others fled of their own volition to escape starvation and deprivation. A network of smugglers facilitated this trafficking. Many victims of trafficking, unable to speak Chinese, were held as virtual prisoners, and some were forced to work as prostitutes. Traffickers sometimes abused or physically scarred the victims to prevent them from escaping. Officials facilitated trafficking by accepting bribes to allow individuals to cross the border into China.

Persons with Disabilities

A law enacted in 2003 mandates equal access for persons with disabilities to public services; however, implementing legislation has not been passed. Traditional social norms condone discrimination against persons with physical disabilities. Although veterans with disabilities were treated well, other persons with physical and mental disabilities have been sent out of Pyongyang into internal exile. According to a report released in 2006 by the World Association of Milal, approximately 3.4 percent of the population was disabled. According to the report, more than 64 percent of persons with disabilities lived in urban areas. In 2006 a citizen who defected in 2005 reported that "there are no people with physical defects in North Korea" because babies born with disabilities were killed in a practice encouraged by the government. It is not known whether the government restricts the right of persons with disabilities to vote or participate in civic affairs.

Other Societal Abuses and Discrimination

No information was available on other societal abuses and discrimination, such as societal violence or discrimination based on sexual orientation or against persons with HIV/AIDS.

Section 6 Worker Rights

The Right of Association

The constitution provides for freedom of association; however, this provision was not respected in practice. There were no known labor organizations other than those created by the government. The KWP purportedly represents the interests of all labor. There was a single labor organization, the General Federation of Trade Unions of Korea. Operating under this umbrella, unions functioned on the classic Stalinist model, with responsibility for mobilizing workers to support production goals and for providing health, education, cultural, and welfare facilities.

The Right to Organize and Bargain Collectively

Workers do not have the right to organize or to bargain collectively. Factory and farm workers were organized into councils, which had an impact on management decisions. Unions do not have the right to strike.

There was one special economic zone (SEZ) in the Rajin-Sonbong area. The same labor laws that applied in the rest of the country applied in the Rajin-Sonbong SEZ, and workers in the SEZ were selected by the government.

Under a special law that created the Kaesong Industrial Complex (KIC), located close to the demilitarized zone between South and North Korea, special regulations covering labor issues negotiated between North Korea and South Korea were in effect for the management of labor in the area. Those regulations did not contain provisions that guarantee freedom of association or the right to collectively bargain. According to South Korea's Ministry of Unification, at year's end approximately 60 South Korean firms, including small firms operating in an apartment-type factory, were producing goods at the KIC. There were approximately 22,800 workers employed at the site. South Korea's Ministry of Unification reported that the DPRK's Central Special Area Development Directing Bureau provides candidates for selection by the South Korean companies. Under this agreement, North Korean workers in the KIC reportedly earned a monthly minimum wage of approximately \$60.40, after a 5 percent wage increase began in August. Employing firms reported that, with overtime, the average worker earned about \$74 before deductions. Due to the lack of transparency, it was difficult to determine what proportion of their earned wages workers ultimately took home. Although the special laws governing the KIC require direct payment to the workers, the wages were in fact paid to the North Korean government, which withheld a portion for social insurance and other benefits and then remitted the balance (reportedly about 70 percent) to the workers in an unknown combination of coupons, which could be exchanged for staple goods, and North Korean won, converted at the official exchange rate.

Prohibition of Forced or Compulsory Labor

The laws prohibit forced or compulsory labor. However, the government mobilized the population for construction and other labor projects, including on Sundays, the one day off a week. Following severe flooding in July, the media released footage of soldiers and civilians working on flood recovery construction projects. School children sometimes were sent to work in factories or in the fields for short periods to assist in completing special projects or in meeting production goals. Children were also forced to participate in cultural activities and, according to academic reports, were subjected to harsh conditions during mandatory training sessions. According to a South Korean press report, the government required high school and college students to participate in unpaid "voluntary work," particularly rice planting efforts, during their vacation periods. A defector interviewed by the UN special rapporteur reported that the government sometimes took young people from the street and forced them to work on the farms. The government also frequently gathered large groups together for mass demonstrations and performances. "Reformatory labor" and "reeducation through labor" have traditionally been common punishments for political offenses. Forced and compulsory labor, such as logging and tending crops, continued to be the common fate of political prisoners. In 2006 Cho Chang-ho, a ROK POW who escaped in 1994, testified that the government held ROK POWs in various types of prison camps and forced them to work in coal mines and other types of forced labor. Cho reported POWs faced daily abuses, beatings, and threats.

The penal code requires that all citizens of working age must work and "strictly observe labor discipline and working hours." According to the penal code, failure to meet economic plan goals can result in two years of "labor correction."

Prohibition of Child Labor and Minimum Age for Employment

According to the law, the state prohibits work by children under the age of 16 years, and the penal code criminalizes forced child labor. Still, school children were occasionally assigned to factories or farms for short periods to help meet production goals and to other work such as snow removal on major roads.

Acceptable Conditions of Work

No reliable data were available on the minimum wage in state-owned industries. Since the 2002 economic reforms, compensation underwent significant change as citizens sought to earn hard currency to support themselves and their families. Workers often had to pay for services that had previously been provided either free or at highly subsidized rates by the state, such as rent for housing and fees for transportation. While education and medical care technically remained free, educational materials and medicines appeared available only for purchase in markets. Foreign observers who visited the country reported that many factory workers regularly failed to go to work, paying a bribe to managers to list them as present, so they could engage in various trading and entrepreneurial activities instead. The same source said that many government factories were not operating, primarily due to electricity shortages.

Class background and family connections could be as important as professional competence in deciding who received particular jobs, and foreign companies that have established joint ventures continued to report that all their employees must be hired from registers screened by the government.

The constitution stipulates an eight-hour workday; however, some sources reported that laborers worked longer hours, perhaps including additional time for mandatory study of the writings of Kim Il-sung and Kim Jong-il. The constitution provides all citizens with a "right to rest," including paid leave, holidays, and access to sanitariums and rest homes funded at public expense; however, the state's willingness and ability to provide these services was unknown. Foreign diplomats reported that workers had 15 days of paid leave plus paid national holidays. Some persons were required to take part in mass events on holidays, which sometimes required advance practice during work time. Workers were often required to "celebrate" at least some part of public holidays with their work units and were able to spend a whole day with their families only if the holiday lasted for two days.

Many worksites were hazardous, and the industrial accident rate was high. The law recognizes the state's responsibility for providing modern and hygienic working conditions. The penal code criminalizes the failure to heed "labor safety orders" pertaining to worker safety and workplace conditions only if it results in the loss of lives or other "grave loss." In addition workers do not have an enumerated right to remove themselves from hazardous working conditions.

Citizens suffered human rights abuses and labored under harsh conditions while working abroad for North Korean firms and under arrangements between the North Korean government and foreign firms. According to press reports, such contract laborers worked in Mongolia, Russia, Libya, Saudi Arabia, Bulgaria, and Angola. In most cases employing firms paid salaries to the North Korean government, and it was not known how much of that salary the workers received. Workers were typically watched closely by government officials while overseas and reportedly did not have freedom of movement outside their living and working quarters. In January the Czech Ministry of Interior announced the elimination of its program for North Korean workers. All North Koreans should have left the Czech Republic by the end of the year, when their work visas expired. Similarly, the government of Poland decided to end the North Korean work program once the current workers' visas expire.

Wages of some of the several thousand North Koreans employed in Russia were reportedly withheld until the laborers returned home, making them vulnerable to deception by North Korean authorities, who promised relatively high payments. During the year the government and Russia held talks on an agreement on the use of the temporary labor of one another's nationals.

*Note on Sourcing: The United States does not have diplomatic relations with the Democratic People's Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited guests the freedom of movement that would enable them to fully assess human rights conditions or confirm reported abuses. Refugee testimony is often dated because of the time lapse between refugee departures from North Korea and contact with NGOs or officials able to document human rights conditions, though in recent years some refugees have been able to relate their stories in a more timely fashion.





Korea, Republic of

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

The Republic of Korea (Korea or ROK) is a constitutional democracy governed by a president and a unicameral legislature. The country has a population of approximately 48 million. Multiple candidates ran in presidential elections held in December that were free and fair. 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 some areas. Women, persons with disabilities, and minorities continued to face societal discrimination. Rape, domestic violence, child abuse, and trafficking in persons remained serious problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

According to unconfirmed news reports, approximately 100 conscripts have committed suicide each year due to military hazing. Official sources indicated that not all of the suicides were caused by such hazing, alleging that mental illnesses and personal issues also were factors.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits mistreatment of suspects, and officials generally observed this prohibition in practice.

The government continued to investigate incidents of possible abuse under the country's former military regimes. Since the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement's creation in 2000, it had reviewed 11,041 of the 12,657 cases reported and determined that compensation was due for 3,112 of cases, as of November.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, rules regarding arrest and detention under the National Security Law (NSL) are vague. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea (DPRK) and therefore deemed dangerous to the country. The NSL permits the imprisonment for up to seven years of anyone who "with the knowledge that he might endanger the existence or security of the state or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization." The legal standard for what constitutes "endangering the security of the state" is vague. Thus, persons could be arrested for the peaceful expression of views that the government considered pro-DPRK or antistate. The UN Human Rights Committee termed the NSL "a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights."

Between January and September, authorities arrested 16 persons for alleged NSL violations. For example, two teachers who were members of the Unification Committee of the Korea Teachers Labor Union were indicted on charges of violating the NSL for collecting unification-related materials to be used in class and for discussing such materials over the Internet with other teachers. They were released on bail and were on trial without physical detention. In another case a photographer faced charges of revealing national security and military secrets for publishing a book that included photographs of local United States Forces Korea facilities. At year's end he was on trial without physical detention.

A university professor found guilty of violating the NSL was sentenced to two years in prison with a stay of execution of three years, and he appealed the case in 2006. At an appeal hearing, his sentence was upheld, and at year's end he was pursuing his final appeal.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the Korean National Police Agency (KNPA), and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest and Detention

The law requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such cases judges must issue arrest warrants within 48 hours after the suspect is apprehended, or within 72 hours if a court is not located in the same county. Police may detain suspects who appear voluntarily for questioning for up to six hours but must notify the suspects' families. The police generally respected these requirements. Authorities generally must release an arrested suspect within 20 days unless an indictment is issued. An additional 10 days of detention is allowed in exceptional circumstances.

There is a bail system, but human rights lawyers stated bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a previous victim, or had no fixed address.

The law provides for the right to representation by an attorney, including during police interrogation. During the first 24 hours of up to a 10-day temporary detention, however, the government can deny detainees access to a lawyer. For the remainder of the 10-day period, the government can prohibit a detainee's attorney from being present during questioning. After an arrest there are no restrictions on access to a lawyer. These rights are codified in the law and were generally observed. During both detention and arrest periods, an indigent detainee may request that the government provide a lawyer.

Access to family members during detention varies according to the level of crime being investigated. During the year Minbyun, a legal aid nongovernmental organization (NGO), reported that there were no reports of access to legal counsel being denied.

Amnesty

In August the government granted a special amnesty to 434 prisoners and paroled another 5,888. The list included seven politicians and 223 others who had been convicted for election fraud.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The law provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, the right to a speedy trial, the right of appeal, and freedom from retroactive laws and double jeopardy. Although the law prohibits double jeopardy, the courts interpreted this provision to mean that a suspect cannot be indicted or punished more than once for the same crime, while the prosecution can appeal a not-guilty verdict or a sentence it considers excessively lenient. Therefore, a suspect may be tried more than once for the same crime. Trials are open to the public, but a judge may restrict attendance if he believes spectators might disrupt the proceedings. While a new public jury system was introduced this year, the verdict of the jury is not legally binding. Court-appointed lawyers are provided by the government (at government expense) in cases where defendants cannot afford to provide their own legal counsel. When a person is detained, the initial trial must be completed within six months of arrest. Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Defendants have the right to be present and to consult with an attorney, can confront or question witnesses against them, and can present witnesses and evidence on their behalf. Defendants have access to government-held evidence relevant to their cases. The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law extends the above rights to all citizens.

Political Prisoners and Detainees

It was difficult to estimate the number of political prisoners because it was unclear whether persons were arrested for exercising the rights of free speech and association, or were detained for committing acts of violence or espionage. Mingahyup, an NGO, reported that as of September the government had prosecuted 82 persons for their political beliefs. As of August the government had convicted 803 conscientious objectors who failed to report for military service.

There were no reports of political detainees.

Civil Judicial Procedures and Remedies

There was an independent and impartial judiciary in civil matters, and there were no problems enforcing domestic court orders.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice. Some human rights groups raised concerns about possible government wiretapping abuse. The Anti-Wiretap Law establishes broad conditions under which the government may monitor telephone calls, mail, and other forms of communication for up to two months in criminal investigations and four months in national security cases. The Ministry of Information and Communication reported 1,033 instances of wiretapping in 2006. From January to June, there were 623 cases of wiretapping, an increase of 18 percent from the 528 cases during the same period in 2006.

The government continued to require some released prisoners to report regularly to a probation officer under the Social Surveillance Law. While the Ministry of Unification (MOU) designated precinct-level officers to handle issues brought forth by resettled DPRK refugees, the MOU claimed that there were no reporting requirements for the resettled citizens.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in the DPRK if the government determines that the action endangers national security or the basic order of democracy in the country. However, this prohibition was rarely enforced, and the viewing of DPRK satellite telecasts in private homes is legal.

The government used its authority, and what protestors claimed was excessive force by security officials, to appropriate land for a foreign military base expansion in Pyongtaek. Some Daechuri villagers, who depended on the land for their livelihood, claimed that they were evicted without fair compensation. The villagers vacated the land by April, according to press reports.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. However, under the NSL the government may limit the expression of ideas that authorities consider Communist or pro-DPRK.

According to Reporters Without Borders, on March 10 police beat journalists who were covering a banned protest against free-trade trade talks. After the incident the police issued an apology, proposed solutions to guarantee the safety of journalists, and claimed that they had taken disciplinary measures against the officers in question after an investigation.

Internet Freedom

The government blocked violent and sexually explicit Web sites and required site operators to rate their site as harmful or not harmful to youth, based on the country's telecommunications laws that ban Internet service providers from offering harmful information for youth. The government also continued to block DPRK Web sites that it

deemed inappropriate.

According to 2005 Organization for Economic Cooperation and Development data, 92.7 percent of households had access to the Internet. In addition to Internet access from home, public Internet rooms were widely available and inexpensive.

Academic Freedom and Cultural Events

There were generally no government restrictions on academic freedom or cultural events. However, during the year the government refused to issue the Dalai Lama a visa to enter the country.

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. The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires police to be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law; however, police routinely approved demonstrations. While numerous trade-related protests occurred throughout the year, the police reportedly banned some protests by groups that had not properly registered, or that had been responsible for violent protests in the past.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice. Associations operated freely, except those deemed by the government to be seeking to overthrow the government. For example, Jang Min-ho, a U.S. citizen and former *JoongAng Daily* reporter in Los Angeles, was indicted in October 2006 with six ROK citizens on charges of meeting with DPRK spies.

c. Freedom of Religion

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

Societal Abuses and Discrimination

During the year a publisher agreed to withdraw a best-selling children's comic book from stores after meeting with a prominent anti-Semitism watchdog group that accused the author of spreading messages echoing Nazi propaganda. According to the Ministry of Culture and Tourism, the author and the publisher released a revised version of the book that eliminated the disputed portions by year's end.

The small Jewish population was comprised almost entirely of expatriates.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

Most citizens could move freely throughout the country; however, government officials restricted the movement of certain DPRK defectors by denying them passports. The Supreme Court reviewed the constitutionality of this matter during the year and by year's end had not issued a ruling. While foreign travel generally was unrestricted, the government must approve travel to the DPRK. Travelers going to places other than Kaesong or Mt. Kumgang must receive a briefing from the MOU prior to departure and demonstrate that their trip does not have a political purpose and is not undertaken to praise the DPRK or criticize the government.

The law does not include provisions for forced exile of its citizens, and the government did not employ it.

Protection of Refugees

The laws 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 established a system for providing protection to refugees. However, the government did not routinely grant refugee status or asylum. In practice the government generally provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers and an alternative form of protection, a renewable, short-term permit, to those who met a broader definition of "refugee." Between July 1994, when the government first accepted applications, and December 2007, the government received approximately 1,500 asylum applications (not including those from the DPRK); of those, the government recognized 64 applicants as refugees. During the year the government received 403 refugee applications (not including those from the DPRK). 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 continued to work with the UNHCR to bring its refugee processing up to international standards; however, a complex procedure and long delays in refugee status decision making continued to be problems.

According to a 2007 Human Rights Watch paper, the government's commitment to refugee protection was weak. The few who were granted refugee status often were forced to "put their lives on hold" for years awaiting a final decision on their status. Those given permission to stay without refugee status were not allowed to work. While government financial assistance was almost nonexistent, civil society groups provided some forms of assistance.

Those few asylum seekers who were recognized as refugees were provided with basic documentation but frequently encountered problems in exercising their rights. In particular their protected status was not always recognized by all government departments, and refugees, like other foreigners, were frequently subjected to various forms of informal discrimination.

The government continued its longstanding policy of accepting refugees from the DPRK, who are entitled to ROK citizenship. The government resettled 1,990 North Koreans from January to October, resulting in a total of approximately 11,700 North Koreans resettled in 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 in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 20 years of age or older.

Elections and Political Participation

Presidential elections held in December were free and fair.

Both the majority and the various minority political parties operated without restriction or outside interference.

In general elections, 50 percent of each party's candidates on the proportional ballot and 30 percent of each party's geographical candidates must be women. There were 43 female lawmakers in the 299-seat National Assembly, with two of 19 National Assembly committees chaired by women. Two of 13 Supreme Court justices and one of 18 cabinet ministers were women.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. The Korea Independent Commission Against Corruption stated that the overall "cleanliness level" of the government for 2006 was 8.77 out of 10 points, an improvement from 8.68 in 2005 and 8.38 in 2004. They reported that the increase resulted from the government's continued focus on anticorruption measures, including the improvement of internal auditing in the various ministries. During the year the commissioner of the National Tax Service was arrested on allegations of accepting bribes. Two Blue House aides were arrested on charges of influence peddling.

According to the Public Service Officers Ethics Law, public servants above a certain rank must register their assets, including how they were accumulated, thereby making their holdings public. Among the anticorruption agencies are the Korea Independent Commission Against Corruption, the Board of Audit & Inspection, and the Public Servants Ethics Committee.

The country has a Freedom of Information Act; in practice the government granted access for citizens and noncitizens alike, including foreign media.

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 often cooperative and responsive to their views.

The National Human Rights Commission (NHRC) is an independent government body established in 2001 by the National Human Rights Commission Act. The goal of the commission is to protect and promote human rights in Korea; however, it has no enforcement powers, and its decisions are not binding. The NHRC investigates complaints, issues policy recommendations, and conducts education campaigns. The NHRC has largely enjoyed the government's cooperation, received adequate resources, and been considered effective.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law forbids discrimination on the basis of gender, religion, disability, age, social status, regional origin, national origin, ethnic origin, physical condition or appearance, marital status, pregnancy and child delivery, family status, race, skin color, thought or political opinion, record of any crime for which punishment has been fulfilled, sexual orientation, or medical history, and the government generally respected these provisions. However, traditional attitudes limited opportunities for women, persons with disabilities, and ethnic minorities. While courts have jurisdiction to decide discrimination claims, many of these cases were instead handled by the NHRC. From January to August, 779 such cases were brought before the NHRC.

Women

Rape remained a serious problem. Although there is no specific statute that defines spousal rape as illegal, the courts have established a precedent by prosecuting spouses in such cases. Between January and August there were 4,374 reports of rape and 1,959 prosecutions. Many rapes were believed to have gone unreported because of the stigma associated with being raped. The activities of women's groups increased awareness of the importance of reporting and prosecuting rape, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. The penalty for rape is three years' imprisonment; if a weapon is used or two or more persons commit the rape, punishment may be a maximum of life imprisonment.

Violence against women remained a problem. Between January and August the Ministry of Justice (MOJ) registered 6,733 cases of domestic violence and prosecuted 1,043 cases. According to the Ministry of Gender Equality and Family Affairs (MOGEF), nearly 50 percent of all women were victims of domestic violence. The Special Act on the Punishment of Domestic Violence defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. Offenders can also be sentenced up to five years' imprisonment or fined less than \$7,400 (seven million won). Offenders may also be placed on probation or ordered to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence, and the police generally were responsive. The government established some shelters for battered women and increased the number of childcare facilities. However, women's rights groups stated these measures fell far short of effectively dealing with the problem. During the year the NHRC determined that female victims are more likely to receive social criticism rather than protection. The NHRC also found that women often suffer from feelings of shame, disgust, mortification, and guilt rather than being provided with appropriate support because of law enforcement officials' chauvinism and inadequate sensitivity, which affects the investigation and trial process. During the year the government built five new shelters for victims of domestic violence for a total of 97 shelters but did not build any new shelters for child victims of sexual violence.

Prostitution is illegal but widespread. Media reports claimed that police officers, soldiers, government employees, and airport officials frequented massage parlors, where prostitution has become more prevalent in recent years. Antiprostitution and antitrafficking legislation provides protection for the victims of prostitution and enhanced punishment for those engaged in prostituting other persons. From January to June, the government indicted 2,944 citizens for violating the 2004 Act on the Punishment of Intermediation of Sex Trade, and of these 147 had been detained for pretrial purposes. In 2006 the government indicted 6,472 such persons and detained 323 for trial. The government allows for the prosecution of its citizens for acts of child sexual exploitation committed in other countries, although this law was seldom used. Some NGOs also expressed concern that sex tourism to China and Southeast Asia was becoming more prevalent.

In recent years the government has made some progress in addressing sexual harassment, but the issue continued to be a problem. The 2005 revision of "Framework Act on Women's Rights Promotion" stipulated that heads of organizations were obligated to take preventive measures against sexual harassment. Pursuant to the act, the government conducts an annual review of actions taken by public organizations concerning sexual discrimination, grants awards for improvements, and provides special retraining sessions for managers of suboptimal organizations. Private companies' obligations to take preventive measures against sexual harassment are stipulated in the Sexual Equality Employment Act. These efforts have had only limited success; the NHRC found that there continued to be a lack of understanding on what constitutes sexual harassment. The NHRC received 155 cases of sexual harassment during the year. According to the NHRC, remedies for sexual harassment cases included issuance of recommendation for redress, conciliation, mutual settlement, and resolution during investigation. More cases were resolved through conciliation or mutual settlement, which were quicker and more efficient than the commission's investigation process. The NHRC lacks the authority to impose punitive measures, which must be pursued through the court system. During the year court rulings that overturned sexual harassment convictions, often at the request of the complainant, pointed to an underlying tolerance in society at large for sexual harassment in the workplace rather than any failing of the systems of redress.

In 2005 the National Assembly eliminated the household registration system that made women legally subordinate to the male family head. The reforms also allow remarried women to change their children's family name to their new husband's name and ended the six-month waiting period to remarry that was directed only at women. The family law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce.

Women continued to experience economic discrimination in pay for substantially similar work. According to the Korea Institute of Finance, a survey of financial services companies revealed that almost 60 percent of newly created jobs in this sector were filled by women. Nevertheless, relative to other developed countries, few women worked in managerial positions or earned more than a median income, and gender discrimination in the workplace remained a problem. According to a 2006 Korea

Women's Development Institute survey, the average working woman earned 64 percent of what a man made in a comparable job. The Equal Employment Act penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination could be fined up to approximately \$5,300 (5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Some government agencies' preferential hiring of applicants with military service (nearly always men) reinforced barriers against women, despite a constitutional court ruling that such preferential hiring was unconstitutional. A poll showed that 79 percent of female respondents experienced some form of discrimination in the workplace, usually in the form of job duties and pay.

Children

The government demonstrated its commitment to children's rights and welfare through public education. The government provided high-quality elementary education to all children free of charge. Education is compulsory through the age of 15, and most children obtained a good secondary education. In 2006 enrollment rates for elementary school were at 91 percent. Boys and girls have equal access to education. High-quality health care was widely available to children.

From January through June, 5,573 child abuse cases were reported to the MOHW. During the year the MOGEF continued to maintain three centers that provided counseling, treatment, and legal assistance to child victims of sexual violence.

The Juvenile Sexual Protection Act establishes a maximum sentence of 25 years' imprisonment for the brokerage and sale of the sexual services of persons younger than 19 years of age. It also establishes prison terms for persons convicted of the purchase of sexual services of youth under age 19. Based on this law, the commission publicizes the names of those who commit sex offenses against minors. The Youth Protection Law provides for prison terms of up to three years or a fine of up to approximately \$21,200 (20 million won) for owners of entertainment establishments who hire persons under age 19. The Commission on Youth Protection's definition of "entertainment establishment" includes facilities such as restaurants and cafes where children are hired illegally as prostitutes.

Although the law bans fetal testing except in cases in which a woman's life is in danger, hereditary disease could be transmitted, or rape or incest, such testing and the subsequent abortion of female fetuses frequently occurred, reflecting the traditional preference for male children. The birthrate was 1.08 boys for every girl. The government continued an education campaign aimed at eradicating gender-preference abortions, which are prohibited by law.

Trafficking in Persons

The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to and from the country. Women from Russia, other countries of the former Soviet Union, China, Mongolia, the Philippines, and other Southeast Asian countries were trafficked to the country for sexual exploitation and domestic servitude. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer or tourist visas. In an effort to curb abuse, the government restricted issuance of certain types of entertainer visas. Once these visa recipients were in the country, employers in some instances held victims' passports. In addition, some foreign women, recruited for legal and brokered marriages with Korean men, ended up in involuntary servitude in Korea once married. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada and Mexico, as well as to other Western countries and Japan. Relatively small numbers of economic migrants, seeking opportunities abroad, were believed to have become victims of trafficking as well. There were reports that human traffickers exploited ROK passports for the purposes of human trafficking. There was no credible evidence that officials were involved in trafficking.

Legislation targeting prostitution and human trafficking implemented in 2004 led to a decline in the overall number of red-light districts and prostitutes. As prostitution continued to move overseas and to less visible and less static sex trade sites, however, accurate numbers were difficult to determine. As of August the MOGEF estimated that there were approximately 2,500 prostitutes and 1,000 red-light districts.

The KNPA and the MOJ were principally responsible for enforcing antitrafficking laws. While many credited the laws with increasing societal awareness of sexual exploitation and trafficking as a crime, some observers believed the new laws were not being enforced to their fullest potential. The government continued to support a public awareness campaign, a victim support hot line, and a reward system for information leading to the arrest of traffickers.

While civil and criminal penalties exist for trafficking in persons, prosecution for trafficking Koreans to other countries such as Canada or Mexico was restricted to document fraud or forgery. The National Police and the Prosecutor's Office were responsible for combating trafficking and were generally effective. While the government worked with the international community on investigations related to trafficking, the actual number of cases pursued was not significant.

The government maintained a network of shelters and programs to assist trafficking victims. As of June 451 Korean women were housed in 41 shelters, and 23 foreign women were in three shelters. Victims were also eligible for medical, legal, vocational, and social support services. Many of these services were provided in conjunction with NGOs. The MOJ continued to educate male offenders about the antiprostitution and antitrafficking laws. During the year 15,124 men participated in the program.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, or the provision of other state services. The government, through the MOHW, enacted antidiscrimination laws, built rehabilitation support centers, and provided part-time employment to increase opportunities and access for persons with disabilities. However, during the year the NHRC received 155 cases of alleged discrimination in employment, property ownership, and access to educational facilities.

Firms with more than 300 employees are required by law either to hire persons with disabilities or pay a fine. Nevertheless, the hiring of persons with disabilities remained significantly below target levels.

There were no reports that the government restricted the right of persons with disabilities to vote or participate in civic affairs. NGOs confirmed that the handicapped were not hindered in efforts to participate in civic affairs.

National/Racial/Ethnic Minorities

The country is racially homogeneous, with no sizable populations of ethnic minorities. Citizenship is based on parentage, not place of birth, and persons must demonstrate their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained "foreign," thus disqualifying them legally from entering the civil service and, in practice, being hired by some major corporations. Some foreign workers continued to report difficult working conditions.

Other Societal Abuses and Discrimination

Despite cultural respect for the elderly, there were reports of age discrimination in the workplace. For example, the NHRC criticized airline companies' policy of not hiring women over the age of 25 as crew members.

Some observers claimed that persons with HIV/AIDS suffered from severe societal discrimination and social isolation. A 2006 UN Report on the Global AIDS Epidemic estimated that the country had approximately 13,000 persons with HIV or AIDS, although the government recorded only 4,229 official cases. The AIDS Prevention Act ensures the confidentiality of persons with HIV/AIDS and protects individuals from discrimination. The government supported rehabilitation programs and shelters run by private groups and subsidized medical expenses from the initial diagnosis. The government operated a Web site with HIV/AIDS information and a telephone counseling service.

A 2007 Human Rights Watch letter maintained that, although the law prohibits discrimination on the basis of sexual orientation, transgender people were at risk of discrimination in employment, education, housing, and healthcare.

Section 6 Worker Rights

a. The Right of Association

The law provides workers with the right to associate freely. The 2006 Act on the Establishment and Operation of Public Officials' Trade Unions allows public servants to organize unions; however, government unions protested the law because certain groups of government officials are barred from collective bargaining. In 2006 the Ministry of Labor (MOL) approved a request from the Federation of Government Employees to establish a legal union.

The implementation of the 1997 law that authorizes union pluralism was again postponed. Local and international labor union organizations criticized the government's continued ban on union pluralism to deny workers their collective bargaining rights.

The ratio of organized labor in the entire population of wage earners was approximately 10 percent, or 1.5 million unionists from a total of 14.7 million workers. The country has two national labor federations, the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), and an estimated 1,600 labor unions. The KCTU and the FKTU were affiliated with the International Trade Union Confederation. Most of the FKTU's constituent unions maintained affiliations with global union federations.

The government recognized a range of other labor federations, including independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. Labor federations not formally recognized by the MOL generally operated without government interference, with the exception of the Korean Government Employees Union (KGEU), which was forced out of its offices in 2006 after failing to register as an official union before the specified deadline. During the year the International Labor Organization's Committee on Freedom of Association expressed concern about the government's interference in KGEU's activities and recommended that the government cease all acts of interference, including the ban on collective bargaining. After the KGEU registered as a union in October, the government recognized the union and reported that the KGEU office was reopened.

b. The Right to Organize and Bargain Collectively

The law provides for the workers' right to collective bargaining and collective action, and workers exercised these rights in practice. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. However, forced reinstatement was used less frequently because employers took extra precautions when firing union members.

Under the Special Act on Public Servants' Unions, public servants are allowed to organize trade unions and bargain collectively, although the act restricts the public service unions from collective bargaining on topics such as policymaking issues and budgetary matters.

Under the Trade Union and Labor Relations Adjustment Act, unions must submit a request for mediation to the Labor Relations Commission before a strike. In most cases the mediation must be completed within 10 days; in the case of essential services, within 15 days. Once a dispute has been referred to binding arbitration, striking is prohibited. Management can initiate criminal proceedings against an illegal strike. Arrest warrants can be issued against union leaders, and striking workers can be removed by police from the premises and prosecuted, along with union leaders, and sentenced under the penal code for "obstruction to business." Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

A total of 86 strikes occurred between January and September, with 92,147 participating workers. By law unions in enterprises determined to be of "essential public interest"—including railways, utilities, public health, the Bank of Korea, and telecommunications—can be ordered to submit to government-ordered arbitration. Strikes are prohibited for both central and local government officials and for those who produce mainly defense goods.

There is no independent system of labor courts. Semijudicial agencies such as the Central and Local Labor Relation Commissions mediate or arbitrate labor disputes based on the Trade Union and Labor Relation Adjustment Act. Each commission is composed of equal numbers of representatives of labor, management, and neutral experts who represent the "public interest." The Labor Relations Commission can decide on remedial measures in cases involving unfair labor practices and can mediate or arbitrate labor disputes in sectors deemed essential to public welfare.

The government originally designated enterprises in the two export processing zones (EPZs) as public interest enterprises. Workers in these enterprises were given the rights enjoyed by workers in other sectors, and labor organizations were permitted in the EPZs. However, foreign companies operating in the EPZs were exempt from some of these labor regulations. For example, foreign-invested enterprises located in free economic zones are exempt from mandating monthly leave, paid holidays, and menstruation leave for women; giving preferential treatment to patriots, veterans, and their families; obligating companies with more than 300 persons to recruit persons with disabilities for at least 2 percent of its workforce; encouraging companies to reserve 3 percent of their workforce for workers over 55 years of age; and restricting large companies from participating in certain business categories.

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 protects children from exploitation in the workplace and prohibits forced or compulsory labor, and the government effectively enforced these laws through regular inspections. Child labor was not considered a problem.

The labor standards law prohibits the employment of persons under age 15 without a special employment certificate from the MOL. Because education is compulsory through middle school (approximately age 15), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers can require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the MOL.

e. Acceptable Conditions of Work

The minimum wage is reviewed annually. As of December the minimum wage was approximately \$3.70 (3,480 won) per hour. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers.

Employees of large conglomerates, publicly owned companies, banks, insurance companies with 1,000 or more registered workers, and companies with more than 50 employees work a five-day, 40-hour workweek per new labor regulations introduced in July. Labor laws mandate a 24-hour rest period each week and provide for a flexible hours system, under which employers can require laborers to work up to 48 hours during certain weeks without paying overtime (and 52 with approval from the relevant labor union), so long as average weekly hours for any given two-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 regular hours in a given week. Workers may not be required to work more than 12 hours per working day. Unions

claimed that the government did not adequately enforce the maximum workweek provisions at small companies. The labor standards law also provides for a 50 percent higher wage for overtime.

The Korea Occupational Safety and Health Agency is responsible for implementing industrial accident prevention activities. The government set health and safety standards, but the accident rate was high by international standards. Through August there were 1,221 fatalities related to industrial accidents. According to the Korea Occupational Safety and Health Act, an employer may not dismiss or otherwise disadvantage an employee who interrupts work and takes shelter because of an urgent hazard that could lead to an industrial accident. During the year the Korea Occupational Safety and Health Agency provided funds and technical support to improve safety and health facilities at manufacturing workplaces employing less than 50 employees, awareness of occupational health problems in the workplace, and safety education for migrant workers.

Contract and other "nonregular" workers accounted for a substantial portion of the workforce. According to the government, as of August 2006 there were approximately 5.5 million nonregular workers, approximately 35.5 percent of the workforce. In general nonregular workers performed work similar to regular workers but received approximately 60 percent of the wages and were ineligible for national health and unemployment insurance and other benefits. The government stated that the effect of the 2006 Non-regular Workers Act was still uncertain. The vast majority of the approximately 5.5 million contract and other nonregular workers are usually not foreign workers.

Beginning in July the law on nonregular workers allows companies with more than 300 workers expanded use of temporary contracts for workers for up to two years. However, labor groups alleged that employers used a loophole in the law to avoid their obligation to hire part-time workers as regular workers after the two-year time limit. In September international unions organized a campaign in support of strikes by shop workers against a retail company that dismissed more than 1,000 workers when it bought a retail chain earlier in the year. The unions alleged that the company tried to escape its obligations to grant permanent contracts to the workers, as required by the law. By the end of August, 10 local trade union representatives remained in police prisons, and the government ignored demands to release them.

The Ministry of Migrant Workers estimated that the total number of foreigners with legal working status, including those working through the Employment Permit System (EPS), was approximately 465,000. There were approximately 224,000 illegal immigrants as of July. The MOJ estimated that there were 186,000 illegal workers in the country. The government continued its crackdown on illegal foreign labor.

The government continued to use the EPS to increase protections and controls on foreign workers while easing the labor shortage in the manufacturing, construction, and agricultural sectors. Through the EPS, permit holders may work in certain industries only and have limited job mobility but generally enjoy the same rights and privileges, including the right to organize. Foreign workers were limited in their freedom to change jobs. Before changing jobs, the employee's place of work must close down or the worker must have proof of physical abuse at the hand of the employer. If the worker does not find a new employer within two months, the worker loses his legal status.

As of August there were approximately 176,000 foreigners employed through EPS, mostly from China, Bangladesh, Mongolia, the Philippines, Thailand, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan. They often faced difficult working conditions. Amnesty International and local media reported that foreign laborers often faced physical abuse and exploitation from employers. The government did not provide special protections for foreign laborers.

Foreign workers working as language teachers continued to complain that the institutes for which they worked frequently violated employment contracts, but employers reported there were a large number of foreign teachers who did not fully honor their work contracts.

 [BACK TO TOP](#)



Laos

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

The Lao People's Democratic Republic is an authoritarian, communist, one-party state ruled by the Lao People's Revolutionary Party (LPRP). The 2005 census estimated the population to be 5.6 million. The most recent National Assembly election was held in April 2006. The constitution legitimizes only a single party, the LPRP, and almost all candidates were LPRP members vetted by the party. The LPRP generally maintained effective control of the security forces, but on occasion elements of the security forces acted outside the LPRP's authority.

The central government's overall human rights record improved somewhat during the year, but violations occurred regularly at the provincial, district, and local levels. Citizens continued to be denied the right to change their government. Prison conditions were harsh and at times life threatening. Corruption in the police and judiciary persisted. The government infringed on citizens' right to privacy and did not respect the right to freedom of speech, the press, assembly, or association. Local officials at times interfered with religious freedom and restricted citizens' freedom of movement. Trafficking in persons, especially women and girls for prostitution, remained a problem, as did discrimination against minority groups, such as the Hmong. Workers' rights were restricted. The fate and whereabouts of five boys and one adult from a group of 27 Hmong deported from Thailand in 2005 remained unknown.

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. There continued to be reports of actions by military units against small Hmong insurgent groups that resulted in deaths, including a November 20 attack in the Phu Bia area of Vientiane Province that reportedly killed two women and one child.

There were no developments in the cases of persons allegedly killed by the military or police in previous years, including the deaths in northeast Thailand of four foreign and two Thai citizens, all of Lao ethnicity and connected to the former Lao regime, in January, May, and December 2006; the April 2006 killing allegedly by troops in Vientiane Province of 26 unarmed Hmong, 25 of them women and children, who were foraging for food; the June 2006 killing allegedly by police in the former Saisomboun Special Zone of a Hmong farmer who was a cousin of a Hmong insurgent leader and the shooting of his six-year-old son; and the 2005 death of Protestant pastor Aloun Voraphom in Pak Kading District.

Clashes between insurgent and military forces resulted in an unknown number of deaths of civilians, insurgents, and military forces. During the year insurgents reportedly faced continued army pressure against their encampments in Bolikhamsai, Xieng Khouang, Luang Prabang, and Vientiane provinces and in the former Saisomboun Special Zone. According to insurgent reports, the military attacks and pressure resulted in deaths, injuries, and starvation of persons, mostly women and children.

b. Disappearance

On January 18, police reportedly abducted an ethnic Thai Dam resident of Oudomsay Province who had been an active leader in the Muang Houn Christian community. On January 23, a businessman in an ecotourism company in Luang Namtha Province was abducted after being told to report to the Luang Namtha district police station. The businessman reportedly had been outspoken in his criticism of what he viewed as excessive rubber planting in Luang Namtha. No information on the whereabouts of either individual was available at year's end.

Although the government began the year by continuing to deny that it had detained a group of 26 Hmong children deported from Thailand in December 2005, in March officials acknowledged that the government had custody of the 21 girls from the group, and in April the girls were returned to members of their extended families. Many sources indicated that the children had been held in various government detention facilities since their arrival in the country. At year's end no information on the five boys from the group or the woman who was accompanying the 26 children had been made available. In early May a senior official denied that the government had been detaining the remaining members of the group or knew of their whereabouts, although the official reaffirmed that the government would not give up its efforts to find the boys and promised they would not be harmed or prosecuted.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits the beating or torture of an arrested person. In practice members of the police and security forces sometimes abused prisoners, especially those suspected of associations with the insurgency; however, there were anecdotal reports that abuse continued to decrease, and during the year there were no verifiable reports of prisoner abuse.

Detainees have sometimes been subjected to beatings and long-term solitary confinement in completely darkened rooms, and in many cases they were detained in leg chains or wooden stocks for long periods. Former inmates reported that degrading treatment, the chaining and manacled of prisoners, and solitary confinement in small unlit rooms were standard punishments in larger prisons, while smaller provincial or district prisons employed manacles and chains to prevent prisoners from escaping.

Prison and Detention Center Conditions

Prison conditions varied widely but in general were harsh and occasionally life threatening. Prisoners in larger, state-operated facilities in Vientiane generally fared better than those in provincial prisons. Food rations were minimal, and most prisoners relied on their families for subsistence. Most of the larger facilities allowed prisoners to grow supplemental food in small vegetable gardens, although there were periodic reports that prison guards took food from prisoners' gardens. Prison wardens set prison visitation policies. Consequently, in some facilities families could make frequent visits, but in others visits were severely restricted. Credible reports indicated that ethnic minority prisoners and some foreign prisoners were treated particularly harshly. Former prisoners reported that incommunicado detention was used as an interrogation device and against perceived problem prisoners; however, there were fewer reports of its use. Although most prisons had some form of clinic, usually with a doctor or nurse on staff, medical facilities were extremely poor, and medical treatment for serious ailments was unavailable. Medicine had to be provided by outside sources. In some facilities prisoners could arrange treatment in outside hospitals if they could pay for the treatment and the expense of police escorts.

Prisons held both male and female prisoners, although they were placed in separate cells. In some prisons juveniles were held with adult prisoners. International organizations opposed the government's plan to construct a separate facility to serve juvenile detainees, arguing that juveniles would best be kept in segregated sections

of adult prisons located close to their homes and families. Most juveniles were in detention for narcotics offenses or petty crimes. Rather than send juveniles to prisons, authorities used drug treatment facilities as holding centers for juvenile offenders. While conditions in treatment facilities were generally better than those in prisons, conditions were nevertheless Spartan and lengths of detention indefinite.

The government did not permit regular independent monitoring of prison conditions. The International Committee of the Red Cross (ICRC) continued its longstanding efforts to establish an official presence in the country to carry out its mandate of monitoring prison conditions, but at year's end the government had not granted the ICRC's request. The government at times provided foreign diplomatic personnel access to some prisons and UN and nongovernmental organization (NGO) personnel access to some juvenile detention facilities, but such access was strictly limited.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, in practice the government did not respect these provisions, and arbitrary arrest and detention persisted.

Role of the Police and Security Apparatus

The Ministry of Public Security (MoPS) maintains internal security but shares the function of state control with the Ministry of Defense's security forces and with LPRP and popular fronts. The MoPS includes local police, traffic police, immigration police, security police (including border police), and other armed police units. Communication police are responsible for monitoring telephone and electronic communications. The armed forces have domestic security responsibilities that include counterterrorism and counterinsurgency activities as well as control of an extensive system of village militias.

Impunity remained a problem, as did police corruption. Many police officers used their authority to extract bribes from citizens. Corrupt officials reportedly were rarely punished. In theory the government's National Audit Committee has responsibility for uncovering corruption in all government ministries, including the MoPS, but in practice the office's investigative activities were minimal. Lower-level officials on occasion were arrested and punished for corruption, including some customs officials during 2006.

In January in Vientiane, the MoPS' Inspection Department installed two complaint boxes for citizens to deposit written complaints. On March 1, the ministry announced that most complaints received had been against police officers misusing their powers to take bribes and that "several" police officials had been dismissed or moved to new positions. A senior MoPS official stated that filing grievances is a "basic right" of citizens and claimed that the new system, which was to be expanded nationwide, would help the MoPS "work more effectively." By year's end complaint boxes had also been installed in all provinces except Xekong and Attapeu, which were scheduled to have boxes installed in 2008.

Police are trained at the National Police Academy, but the extent to which the academy's curriculum discusses corruption was unknown. At the instruction of the LPRP, the government-controlled press rarely reported cases of official corruption.

Arrest and Detention

Police and military forces both had powers of arrest, although normally only police carried out these powers. Police agents exercised wide latitude in making arrests, relying on exceptions to the requirement that warrants are necessary except to apprehend persons in the act of committing crimes or in urgent cases. Police reportedly sometimes used arrest as a means to intimidate persons or extract bribes. There were reports that military forces occasionally arrested or detained persons suspected of insurgent activities.

There is a one-year statutory limit for detention without trial. The length of detention without a pretrial hearing or formal charges is also limited to one year. The Office of the Prosecutor General (OPG) reportedly made efforts to ensure that all prisoners were brought to trial within the one-year limit, but the limit sometimes was ignored. The OPG must authorize police to hold a suspect pending investigation. Authorization is given in three-month increments, and a suspect must be released after a maximum of one year if police do not have sufficient evidence to bring charges. There is a bail system, but its implementation was arbitrary. Prisoner access to family members and a lawyer was not assured. Incommunicado detention was a problem; however, it was used less frequently than in the past.

A statute of limitations applies to most crimes. Alleged violations of criminal laws at times led to lengthy pretrial detentions without charge and minimal due process protection of those detained. Authorities sometimes continued to detain prisoners after they had completed their sentences, particularly in cases where prisoners were unable to pay court fines. In other cases prisoners were released contingent upon their agreement to pay fines at a later date. There were no reports that police administratively overruled court decisions by detaining exonerated individuals.

On February 9, authorities released two ethnic minority Christians arrested in August 2006 in Savannakhet Province's Xephone District, reportedly for being outspoken about their Christian faith and for their perceived pro-Western views.

Early in the year authorities released one of 13 ethnic Khmu Christians arrested in Khon Kean Village, Vientiane Province, in late 2006. On May 16, nine others were released after being held at a police detention facility in Hin Heup, Vientiane Province, and receiving "reeducation" on the government's policy on religion. The three pastors from the group were released in early December.

After an insurgent attack on an army camp near Vang Vieng in Vientiane Province in February, Vang Vieng officials reportedly allowed 10 local Hmong and Khmu Christian families to move from Vientiane Province to neighboring Bokeo, Luang Namtha, and Oudomsay provinces, although the Vang Vieng officials did not provide the legal documents required for such a move. After a short period, the Vang Vieng officials reportedly required the families to return to Vang Vieng, where the male heads of family--seven Hmong and three Khmu--reportedly were detained at Vientiane Province's Thong Harb Prison. On August 4, three pastors went to the prison to ask why the men were being held. The pastors themselves were then imprisoned but released on October 13 after each paid a fine of \$100 (960,000 kip). Of the original 10 detainees, one reportedly died, and the other nine remained in Thong Harb Prison at year's end.

e. Denial of Fair Public Trial

The law provides for the independence of the judiciary; however, senior government and party officials influenced the courts, although to a lesser degree than in the past. Impunity was a problem, as was corruption. Reportedly, some judges could be bribed. The National Assembly may remove judges from office for "impropriety"; however, according to government sources, since 1991 only one judge at the district level has been removed for improper behavior.

The people's courts have four levels: district courts, municipal and provincial courts, a court of appeals, and the Supreme People's Court. In 2004 the Supreme Court established a commercial court, family court, and juvenile court. Decisions of the lower courts are subject to review by the Supreme Court, but military court decisions are not. There are instances in which civilians may be tried in military courts, but there were no reports of such trials during the year.

Trial Procedures

Juries are not used. Trials that involve certain criminal laws relating to national security, state secrets, children under the age of 16, or certain types of family law are closed. The law provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other persons. Defense attorneys are provided at government expense only in cases involving children, cases for which there is the possibility of life imprisonment or the death penalty, and cases that are considered particularly complicated, such as those involving foreigners. The law requires that authorities inform persons of their rights and states that defendants may have anyone assist them in preparing written cases and accompany them at their trials; however, only the defendant may present oral arguments at a criminal trial.

Defendants are permitted to question witnesses and can present witnesses and evidence on their own behalf.

Court litigants may select members of the Lao Bar Association to represent them at trials. The association is nominally independent but receives some direction from the Ministry of Justice. For several reasons, including a lack of funds, shortage of attorneys, and the general perception that attorneys cannot affect court decisions, most defendants did not choose to have attorneys or trained representatives. To enhance popular understanding of the law and legal sector, in December the bar association launched a three-year project, funded by a grant from The Asia Foundation, to conduct the first mobile legal clinics in the country, operating from legal aid clinic bases in Champasak and Oudomsay provinces. The project was also intended to enhance the institutional capacity of the bar association itself.

Under the law defendants enjoy a presumption of innocence. However, in practice judges usually decided guilt or innocence in advance, basing their decisions on the result of police or the prosecutor's investigation reports. Most trials, including criminal trials, were little more than pro forma examinations of the accused and review of the evidence. Defendants have the right of appeal.

All of the country's 450 judges were LPRP members. Most had only basic legal training, and many provincial and district courts had few or no reference materials available for guidance. The National Assembly's Legal Affairs Committee occasionally reviewed Supreme Court decisions for "accuracy" and returned cases to the court or the OPG for review when the committee believed decisions were reached improperly.

Political Prisoners and Detainees

There were three well-known political prisoners. Colonel Sing Chanthakoumane, an official of the pre-1975 government, was serving a life sentence after a 1990 trial that was not conducted according to international standards. Sing reportedly was very ill, but the government ignored numerous requests to release him on humanitarian grounds. At least two persons, Thongpaseuth Keuakoun and Seng-aloun Phengboun, who were arrested in 1999 for attempting to organize a prodemocracy demonstration in Vientiane, continued to serve 10-year sentences for antigovernment activities.

In December 2006 three prisoners were pardoned and released from prison--Thongdai of Meune Manh Village, Feuang District, Vientiane Province; Norneng Siva of Tham Krabork Village, Salaboury District, Trad Province, Thailand; and Herporyang, of Lao Ou Village, Chiang Rai District, Chiang Rai Province, Thailand.

Another 10 persons also described as political prisoners had their sentences reduced in December 2006: Khamlaab, of Meung Va Tha Village, Sikhottabong District, Vientiane Capital; Phavanh, of Nongbone Village, Saysettha District, Vientiane Capital; Thongsai of Nakhandai Village, Lakhonepheng District, Saravane Province; Sounthala, of Laksi Village, Lakhonepheng District, Saravane; Senglith, of Champi Village, Sanasomboun District, Champasak Province; Bounnar, of Nongveng Village, Lakhonepheng District, Saravane; Thitfanh, of Laksong Village, Saravane District, Saravane; Thongchanh, of Thin Village, Xay District, Oudomsay Province; and Lao Cao Va and Lao Tou Va, both of Phiangthor Village, Houn District, Oudomsay.

In addition, based on information provided by former prisoners, a small but unknown number of persons, particularly Hmong suspected of insurgent activities, were detained for allegedly violating criminal laws concerning national security. Other persons may have been arrested, tried, and convicted under laws relating to national security that prevent public court trials, but there was no reliable method to ascertain their total number.

Civil Judicial Procedures and Remedies

The law provides for independence of the judiciary in both criminal and civil matters; however, enforcement of court orders remained a problem. If civil or political rights are violated, one may seek judicial remedy in a criminal court or pursue an administrative remedy from the National Assembly under the Law on Public Complaints. In regard to social and cultural rights, one may seek remedy in a civil court.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The law generally protects privacy, including that of mail, telephone, and electronic correspondence, but the government reportedly violated these legal protections when there was a perceived security threat.

The law prohibits unlawful searches and seizures. By law police must obtain search authorization from a prosecutor or a panel of judges, but in practice police did not always obtain prior approval, especially in rural areas. Security laws allow the government to monitor individuals' movements and private communications, including via cellular telephones and e-mail.

The MoPS regularly monitored citizens' activities through a surveillance network that included a secret police element. A militia in urban and rural areas, operating under the aegis of the armed forces, shared responsibility for maintaining public order, reporting "undesirable elements" to police, and providing security against insurgents in remote rural areas. Members of the LPRP's front organizations, including the Lao Women's Union, the Youth Union, and the Lao Front for National Construction (LFNC), also played a role in monitoring the citizenry at all levels of society.

The government continued its program to relocate highland slash-and-burn farmers, most of whom belonged to ethnic minority groups, to lowland areas in keeping with its plan to end opium production and slash-and-burn agriculture. In some areas district and provincial officials used persuasion to convince villagers to move to relocation areas. In other areas villagers relocated spontaneously to be closer to roads, markets, and government services. Although the government's resettlement plan called for compensating farmers for lost land and providing resettlement assistance, this assistance was not available in many cases or was insufficient to give relocated farmers the means to adjust to their new homes and new way of life. Moreover, in some areas farmland allotted to relocated villagers was of poor quality and unsuited for intensive rice farming. The result was that some relocated villagers experienced increased poverty, hunger, malnourishment, susceptibility to disease, and mortality rates. The government relied on assistance from NGOs, bilateral donors, and international organizations to cover the needs of those recently resettled, but such assistance was not available in all areas.

The government allows citizens to marry foreigners only with prior approval. Premarital cohabitation is illegal. Although the government routinely granted permission to marry, the process was lengthy and burdensome and offered officials the opportunity to solicit bribes. The government may annul marriages to foreigners undertaken without government approval, with both parties subject to arrest and fines.

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, in practice the government severely restricted political speech and writing. The government also prohibited most public criticism that it deemed harmful to its reputation. The law forbids slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the state. Citizens who registered legitimate complaints with government departments generally did not suffer reprisals.

The state owned and controlled most domestic print and electronic media. Local news in all media reflected government policy. Although domestic television and radio broadcasts were closely controlled, the government made no effort to interfere with television and radio broadcasts from abroad. Many citizens routinely watched Thai television or listened to Thai radio, including news broadcasts from international news sources. Citizens had 24-hour access to international stations via satellite and cable television. The government required registration of receiving satellite dishes and payment of a one-time licensing fee, largely as a revenue-generating measure, but otherwise made no effort to restrict their use. A private company provided cable television service to subscribers in Vientiane and other cities that offered Thai and international news and entertainment programs without restriction from authorities.

The government permitted the publication of several privately owned periodicals of a nonpolitical nature, including periodicals specializing in business, society, and trade topics. While government officials did not review in advance all articles in these periodicals, they reviewed them after publication and could impose penalties on periodicals that carried articles that did not meet government approval. A few Asian and Western newspapers and magazines were available through private outlets that had government permission to sell them.

Foreign journalists were required to apply for special visas and were restricted in their activities. Authorities did not allow journalists free access to information sources, but journalists often were allowed to travel without official escorts. When escorts were required, journalists reportedly had to pay for their services.

Authorities prohibited the dissemination of materials deemed indecent, subversive of "national culture," or politically sensitive. Any person found guilty of importing a publication considered offensive to the national culture faced a fine or imprisonment for up to one year.

Internet Freedom

The government controlled all domestic Internet servers and retained the ability to block access to Internet sites that were deemed pornographic or critical of government institutions and policies. The Lao National Internet Committee, under the umbrella of the Prime Minister's Office, administered the Internet system. The government sporadically monitored Internet usage to ensure conformity with the 1997 "Internet Decree"; the prime minister's Decree 166 on the "Organization of a Network and Importation, Use, and Control of the Internet System"; and the prime minister's 2007 Decree 141 on "Rules and Regulations of Internet Services in Lao PDR."

The Prime Minister's Office required all Internet service providers to submit quarterly reports and link their gateways to facilitate monitoring, but the government's ability to enforce such regulations appeared to be limited. The government regularly blocked a few Web sites, operated mostly by Hmong groups abroad. However, the government did not block any major foreign news sources, nor did it have the capability to monitor Web logging (blogging) activity or the establishment of new Web sites. Fearful of monitoring by the authorities, many citizens used the Internet services of a growing number of Internet cafes rather than personal computers for private correspondence. Citizen users are required to register with the authorities, which may have caused some to self-censor their Internet behavior.

Academic Freedom and Cultural Events

The law provides for academic freedom, but in practice the government imposed restrictions. The Ministry of Education tightly controlled curriculums in schools, including private schools and colleges.

Both citizen and noncitizen academic professionals conducting research in the country may be subject to restrictions on travel, access to information, and publication. The government exercised control, via requirements for exit stamps and other mechanisms, over the ability of state-employed academic professionals to travel for research or obtain study grants, but it actively sought such opportunities worldwide and approved virtually all such proposals.

Films and music recordings produced in government studios were required to be submitted for official censorship; however, uncensored foreign films and music were available in video and compact disc format. The Ministry of Information and Culture repeatedly attempted to impose restrictions aimed at limiting the influence of Thai culture in Lao music and entertainment, but these restrictions were widely ignored and appeared to have little effect.

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 prohibits participation in demonstrations, protest marches, or other acts that cause "turmoil or social instability." Participation in such acts is punishable by prison terms of one to five years.

Freedom of Association

The law provides citizens the right to organize and join associations, but the government restricted this right in practice. The government registered and controlled all associations and their activities. Political groups other than popular front organizations approved by the LPRP are forbidden. Although the government restricted many types of formal professional and social associations, informal nonpolitical groups were able to meet without hindrance. The government permitted the creation of some associations of a business nature. The government also permitted the establishment of nonprofit organizations designed to promote science and agriculture. The Prime Minister's Office oversees the small but growing number of organizations that have registered to conduct activities in these areas.

c. Freedom of Religion

The constitution provides for freedom of religion; however, authorities, particularly at the local level, interfered with this right.

Although the state is secular, the LPRP and the government support Theravada Buddhism, which is followed by more than 40 percent of the population and is the faith of nearly all of the ethnic Lao population. The law does not recognize a national religion, but the government's support for and oversight of temples and other facilities and its promotion of Buddhist practices give Buddhism an elevated status among the country's religions.

The LFNC has recognized two Protestant groups: the Lao Evangelical Church (LEC), which is the umbrella Protestant church, and the Seventh-day Adventist Church. The LFNC refused to recognize congregations, such as the Methodists, who operated independently.

By year's end all 13 ethnic Khmu Christians arrested in Khon Kean Village, Vientiane Province, in late 2006 had been released (see section 1.d.).

In the government amnesty at the end of 2006, LEC member Thongchanh, sentenced to 15 years in prison in 1999 for treason and sedition, had his sentence reduced to seven years.

The constitution prohibits "all acts of creating division of religion or creating division among the people." The LPRP and the government used this to justify restrictions on religious practice by all religious groups, including the Buddhist majority and animists. Although official pronouncements acknowledged the positive benefits of religion, they also emphasized its potential to divide, distract, or destabilize. The constitution notes that the state "mobilizes and encourages" Buddhist monks and novices as well as priests of other religions to participate in activities "beneficial to the nation and the people."

Authorities continued to be suspicious of non-Buddhist religious communities, including some Christian groups. Local authorities, apparently in some cases with encouragement from government or LPRP officials, singled out Protestant groups, both those officially recognized by the LFNC and those that were not recognized, as targets of abuse.

Many minority religious leaders complained that Decree 92, which is intended among other things to permit activities such as proselytizing and printing religious material, was too restrictive in practice. They maintained that the requirement to obtain permission, sometimes from several different offices, for a broad range of activities greatly limited their freedom.

The government's tolerance of religion varied by region. In most parts of the country, members of long-established congregations had few problems practicing their faith. Authorities in some areas sometimes advised new congregations to join the LEC, despite clear differences between the groups' beliefs. However, in other areas authorities allowed congregations not affiliated with the LEC or Seventh-day Adventists to continue their worship unhindered. Authorities in some provinces used threats of arrest as a means of intimidating local religious communities. Local officials in some parts of the country also threatened to withhold government identification cards and household registration documents as well as deny educational benefits to those who did not give up their religious beliefs.

The LFNC often sought to intervene with local governments in cases where minority religious practitioners, particularly Christians, had been harassed or mistreated. The LFNC reportedly was growing more proactive about solving problems by educating persons to respect the law and regulations as well as training local officials to respect religious believers. In May the LFNC's director of religious affairs held a nation-wide seminar that included attendance by representatives of all four approved religions (Buddhist, Christian, Muslim, and the Baha'i) to review religious rights given under the constitution and in the law and to discuss resolving religious problems. Local officials such as district chiefs, district police chiefs, and LFNC district-level representatives were to take back lessons learned to be applied locally. In July the LFNC held a second meeting for religious leaders and officials from Vientiane Municipality and Vientiane Province.

In January a visiting LFNC official and the village chief advised residents of Houaysay Noi Village in Bokeo Province that they could believe as they wished but would not be allowed to construct a church. The officials also told the 19 Christian families in the village that they could continue to meet at their house church as long as they used no visible religious symbols that could identify the house as an "official religious structure." At year's end local officials continued to refuse to issue a construction permit.

The Roman Catholic Church was unable to operate effectively in the northern part of the country, and church members living there had only intermittent contact with the bishop of Luang Prabang, who lived in Vientiane. The small Catholic communities in Luang Prabang, Sayaboury, and Bokeo provinces sporadically held services in homes, but there were no priests in the areas, and pastoral visits from Vientiane were infrequent.

During the year the four Catholic priests ordained in 2006, the first new priests allowed by the government in 30 years, took up their new duties. On December 29, the Catholic Church was allowed to ordain an additional priest at Paksane District, Bolikhamsai Province.

Followers of the Baha'i Faith were able to practice their religion without hindrance in Vientiane City and in Savannakhet and Champasak provinces. Small Baha'i groups faced fewer restrictions from local authorities than in the past. The small Muslim community in Vientiane was able to practice its religion without hindrance.

Animists generally experienced no interference from the government in their religious practices, which varied extensively among the approximately 70 identified ethnic groups and tribes in the country. However, the government actively discouraged animist practices that it regarded as outdated, unhealthful, or illegal, such as the practice in some tribes of infanticide of those with birth defects or of keeping the bodies of deceased relatives in homes.

On January 18, in Luang Namtha's Long District, local and district officials pressured 23 ethnic Yao and Hmong Christian families to sign, under threat of being expelled from their village, a document renouncing their faith. Although some refused to sign, no one was forced to leave the village, and at year's end there was no report that any action was taken against the families.

More than 200 Christians--mostly ethnic Yao, Khmu, and Hmong--in Luang Namtha's Xunya Village were regularly pressured by police and reportedly were not allowed to meet for worship services. LFNC officials visited Luang Namtha Province in February to discuss the Xunya situation and educate local Christians of their rights and the requirements for construction of new churches; nonetheless, reports indicated that problems intensified in March, and district officials also took steps to try to prevent Xunya's Christians from worshipping. Representatives from a foreign-based religious group, accompanied by two LEC representatives, attempted to visit Xunya in early April but were prevented from doing so by local police and military personnel. Although the LFNC in Vientiane issued a document on April 2 supporting the right of the Christians in Xunya to worship and sent the document to LFNC and police officials in Luang Namtha, the impact of the April 2 document reportedly was negligible. At year's end tensions remained high between local officials and village Christians.

In Bolikhamsay Province, village and district officials told more than 100 Christians in Nam Deua Village in Pakading District that they could not believe in Christianity because it was an "American" religion. The officials threatened them with expulsion, but at year's end none had been expelled.

Local officials in the villages of Kha and Porhai, both in Huaphanh Province, also pressured local Hmong families not to follow Christianity. At year's end there were no reports of arrests or other actions against Christians in these villages. Christians in other areas of Huaphanh, including Sam Neua District, reportedly were concerned that local officials were prone to blame any security incidents on the Hmong Christian community.

The government strictly prohibited foreigners from proselytizing, although it permitted foreign NGOs with religious affiliations to work in the country. Foreigners who distributed religious material were subject to arrest or deportation. Although Decree 92 permits proselytizing by religious practitioners provided they obtain permission for such activities from the LFNC, the LFNC did not grant such permission, and persons found evangelizing risked harassment or arrest.

Decree 92 authorizes the printing of religious material, provided permission is obtained from the LFNC. The government permitted the printing, import, and distribution of Buddhist religious material. While Christian and Baha'i groups were able to print other religious materials, the government did not allow the printing of Bibles. Special permission was required for their importation for distribution purposes. LEC officials requested permission to import 1,000 Thai-language Bibles early in the year and eventually received permission to import 350.

Societal Abuses and Discrimination

For the most part, the various religious communities coexisted amicably. 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 [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but in practice the government imposed some restrictions. Citizens who traveled across provincial borders are not required to report to authorities; however, in designated security zones officials occasionally set up roadblocks and checked travelers' identity cards. Citizens who sought to travel to contiguous areas of neighboring countries could do so with travel permits generally easily obtained from district offices. Those wishing to travel farther abroad were required to apply for passports; however, officials at the local level sometimes denied some persons permission to apply for passports. Early in the year the government repealed the requirement that citizens obtain exit visas for travel abroad.

Authorities restricted access by foreigners to certain areas where antigovernment insurgents continued to operate.

The government did not use forced exile; however, a small group of persons, who fled the country during the 1975 change in government and were tried in absentia for antigovernment activities, did not have the right of return.

In the years following their return, citizens who had temporarily sought refuge abroad were subject to greater scrutiny by the authorities than were other citizens. However, these returnees have largely reintegrated and no longer received unusual attention from officials. Many who fled after the 1975 change of government have returned to visit relatives; some have stayed and gained foreign resident status, and some have reclaimed citizenship successfully.

Protection of Refugees

The country is not a signatory to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, but the Nationality Law provides for asylum and the protection of stateless persons. In practice the government did not provide protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution, and did not routinely grant refugee or asylum status. However, the government showed some flexibility in dealing pragmatically with individual asylum cases.

The government continued to refuse the request from the Office of the UN High Commissioner for Refugees (UNHCR) to reestablish a presence in the country to monitor the reintegration of former refugees who returned under the UNHCR resettlement program. The government stated that the UNHCR's mandate expired in 2001 and all former refugees had been successfully reintegrated. However, there were estimates that since 2005 more than 2,000 Hmong had surrendered, mainly in the provinces of Xieng Khouang, Bolikhamsai, and Vientiane (part of which composed the former military-administered Saisomboung Special Zone).

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

Citizens do not have the right to change their government. Although the constitution outlines a system composed of executive, legislative, and judicial branches, the LPRP controlled governance and the leadership at all levels through its constitutionally designated "leading role."

Elections and Political Participation

The law provides for a representative national assembly, elected every five years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage. However, the constitution legitimizes only a single party, the LPRP; all other political parties are outlawed. Election committees, appointed by the National Assembly, must approve all candidates for local and national elections. Candidates do not need to be LPRP members, but in practice almost all were.

The National Assembly chooses members of the Standing Committee, generally based on the previous Standing Committee's recommendations. Upon this committee's recommendation, the National Assembly elects or removes the president and vice president. The Standing Committee has the mandate to supervise all administrative and judicial organizations and the sole power to recommend presidential decrees. It also appoints the National Election Committee, which has powers over elections, including approval of candidates. Activities of the Standing Committee were not fully transparent.

The National Assembly, upon the president's recommendation, elects the prime minister and other ministers of the government. The 115-member National Assembly, elected in 2006 under a system of universal suffrage for a five-year term, approved the LPRP's selection of the president and ratified the president's selection of a new prime minister and cabinet at its 2006 inaugural session.

The National Assembly may consider and amend draft legislation, but only permanent subcommittees of the National Assembly may propose new laws. The law gives the right to submit draft legislation to the Standing Committee and the ruling executive structure.

There were 29 women in the 115-member National Assembly, including two on the nine-member Standing Committee. The 55-member LPRP Central Committee included four women, one of whom was also a member of the 11-member Politburo. Of 12 ministers in the Prime Minister's Office, two were women: one headed a new Water and Environment Authority, and the other chaired the Public Administration and Civil Service Authority. The minister of labor and social welfare was also a woman.

There were 23 members of ethnic minorities in the National Assembly, and three of the 28 cabinet ministers were members of ethnic minority groups.

Government Corruption and Transparency

Prior to taking their designated positions, senior officials are required to disclose their personal assets to the LPRP's Party Inspection Committee. The committee inspects the officials' assets before and after the officials have been in their positions. On December 21, Minister of Public Security Thongbanh Seng-aphone, at the Fourth International Day Against Corruption meeting, highlighted the government's objective to combat corruption by implementing policies and passing new laws on state audits, accounting, and state inspections.

Nonetheless, there was a widespread public perception that many officials within the executive and judicial branches of the government were corrupt. Wages of all government officials were extremely low, and many officials, such as police members, had broad powers that they could easily abuse. Some action was reportedly taken against corrupt customs officials in 2006, and a new system of "complaint boxes" in Vientiane led to several police officials being dismissed or transferred early in the year. The LPRP used its control of government authorities and media to block public censure of corrupt officials who were party members.

There are no laws providing for public access to government information, and in general the government closely guarded the release of any information pertaining to its internal activities, deeming such secrecy necessary for "national security."

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

There were no domestic human rights NGOs, nor is there a formal procedure for registering such groups.

The government only sporadically responded in writing to requests for information on the human rights situation from international human rights organizations. However, the government maintained human rights dialogues with several foreign governments and continued to receive training in UN human rights conventions from several international donors. In June a U.S. professor held a series of six conferences, lectures, and roundtable events on trafficking in persons for more than 150 officials and students. In October two other U.S. professors presented lectures on international human rights institutions and different systems of government to approximately 65 officials and also gave a lecture to 70 students from the National University of Laos.

The government maintained contacts with the ICRC and continued to translate international human rights and humanitarian law conventions with ICRC support. Since the 2001 closing of the UNHCR office, the government has not permitted UNHCR personnel to conduct monitoring visits to the country.

A human rights division in the Ministry of Foreign Affairs has responsibility for investigating allegations of human rights violations. However, in practice the division apparently had no authority to perform or order other ministries to undertake investigations. The ministry on occasion responded to inquiries from the UN regarding its human rights situation.

The government at times permitted limited access by international organizations and NGOs to provide food and other material assistance to former insurgents who had accepted government resettlement offers.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. The 1990 Family Law also includes provisions providing for equal treatment without regard to social status. The 2004 Law on Women establishes penalties for crimes against women that are significantly more severe than those contained in the criminal code. The 2004 law defines trafficking and violence against women and children as criminal actions and provides for the protection of victims internally and by international agencies. The government at times took action when well-documented and obvious cases of

discrimination came to the attention of high-level officials, although the legal mechanism whereby citizens may bring charges of discrimination against individuals or organizations was neither well developed nor widely understood among the general population.

Women

Rape reportedly was rare. Article 119 of the penal code criminalizes rape, with punishment set at three to five years' imprisonment. Sentences are significantly longer and may include capital punishment if the victim is under 18 or is seriously injured or killed. In rape cases that were tried in court, defendants generally were convicted with penalties ranging from three years' imprisonment to execution.

Spousal abuse is illegal. There were reports that domestic violence against women occurred, but such violence did not appear to be widespread. Penalties for domestic abuse, including battery, torture, rape, and detaining persons against their will, may include both fines and imprisonment. There was no evidence of police or judicial reluctance to act on domestic abuse cases.

Prostitution is illegal, with penalties ranging from three months to one year in prison. However, in practice antiprostitution laws generally were not enforced, and in some cases officials reportedly were involved in the trade. Trafficking in women and girls for prostitution, both to Thailand and internally, was a problem.

Sexual harassment was rarely reported, and the actual extent was difficult to assess. Although sexual harassment is not illegal, "indecent sexual behavior" toward another person is illegal and punishable by six months to three years in prison.

The law provides for equal rights for women, and the Lao Women's Union operated nationally to promote the position of women in society. The law prohibits legal discrimination in marriage and inheritance. Discrimination against women did not appear common; however, varying degrees of traditional, culturally based discrimination persisted, with greater discrimination practiced by some hill tribes. Many women occupied responsible positions in the civil service and private business, and in urban areas their incomes were often higher than those of men.

Children

Although the government has made children's education and health care a priority in its economic planning, funding for children's basic health and educational needs remained inadequate, and the country had a very high rate of infant and child mortality.

Education is free and compulsory through the fifth grade; however, high fees for books and supplies and a general shortage of teachers in rural areas prevented many children from attending school. Although not reliable, 2005 census data claimed that 67 percent of primary school-age children, 81 percent of middle school-age children, and approximately 41 percent of high school-age children were enrolled in school. In contrast, the UN Development Program estimated that almost 40 percent of children did not attend primary school and only 10 percent entered secondary school. There were significant differences among the various ethnic groups in the educational opportunities offered to boys and girls. Although the government's policy is to inform ethnic groups on the benefits of education for all children, some ethnic groups do not consider education for girls either necessary or beneficial. While figures were not reliable, literacy rates for girls were approximately 10 percent lower than for boys in general. However, according to government policy, an equal number of men and women were accepted by the national university.

According to the Ministry of Public Health, boys and girls had equal access to public medical care.

The law prohibits violence against children, and violators were subject to stiff punishments. Reports of the physical abuse of children were rare.

Trafficking in girls for prostitution and forced labor was a problem. Other forms of child labor generally were confined to family farms and enterprises.

Trafficking in Persons

The law prohibits abduction and trade in persons, detaining persons against their will, procuring persons for commercial sex, and prostitution; however, there were reports that persons, particularly women and girls, were trafficked to, from, or within the country.

The country was primarily a country of origin for trafficking in persons, including girls ages 13 to 16, and, to a much lesser extent, a country of transit. The primary destination country was Thailand. There was almost no effective border control. Studies conducted between 2004 and 2006 indicated that the scale of economic emigration, mostly by young persons between the ages of 15 and 30, was far greater than previously supposed. Approximately 7 percent of the total sample population in three southern provinces migrated, primarily to Thailand, either seasonally or permanently, and approximately 55 percent of the migrants were female. The Thai Ministry of Labor estimated that at least 250,000 Lao workers were employed in Thailand, of whom at least 80,000 were unregistered. An unknown number of these persons were trafficked, although one study indicated that two-thirds of the Lao citizens in Thailand were trafficked after crossing the border. Victims trafficked within Laos were primarily from the northern provinces, such as Houaphan and Xieng Khouang, and were trafficked for sexual exploitation or factory work in cities farther south. According to one study, a very small number of female citizens also were trafficked to China to become brides for Chinese men.

Most trafficking victims were lowland Lao, although small numbers of minority women also were victimized by traffickers, and the number of minority trafficking victims was increasing. Minority groups were particularly vulnerable because they did not have the cultural familiarity or linguistic proximity to Thai that Lao-speaking workers could use to protect themselves from exploitative situations. A much smaller number of trafficked foreign citizens, especially Burmese and Vietnamese, transited through the country.

Many labor recruiters in the country were local persons with cross-border experience and were known to the trafficking victims. For the most part, they had no connection to organized crime, commercial sexual exploitation, or the practice of involuntary servitude, but their services usually ended once their charges reached Thailand, where the victims were exploited by more-organized trafficking groups.

Before the antitrafficking provisions in the 2004 Law on Women went into effect in 2006, the government had prosecuted only a handful of traffickers, according to available information. All were prosecuted under other criminal statutes. The government, working with UN agencies, NGOs, and some foreign governments, disseminated the law to the public, local officials, and law enforcement personnel. During the year the government hosted workshops and training sessions for journalists, policewomen, provincial authorities, ministries involved with road construction, the military, and other LPRP and government officials.

According to information from international organizations, 27 persons were investigated for cross-border trafficking-related offenses involving 139 victims between September 2006 and year's end, leading to 14 convictions. At year's end there were 38 persons under investigation for human trafficking. Lao law enforcement officers participated in joint investigations with their Thai counterparts from northeast Thailand and worked with Vietnamese law enforcement on the new transport routes through the south-central part of the country.

There were few reports of official involvement in trafficking; however, anecdotal evidence suggested that local officials knew of trafficking activities, and some may have profited from them.

The government became more involved in countering the worst forms of trafficking and the exploitation of underage persons, chiefly through cooperation with international NGOs working on trafficking problems. In addition, the government increased its efforts to raise the profile of the trafficking problem by educating the population on the dangers of trafficking, using the media and public appearances by senior leaders. On December 7, the deputy prime minister and minister of national

defense, Lieutenant General Douangchay Phichit, warned that human trafficking and sexual exploitation of children were serious problems and stated that combating them required the cooperation of both the public and private sectors.

The Ministry of Labor and Social Welfare (MLSW) had a unit devoted to children with special needs, including protection of trafficking victims and prevention of trafficking. The MLSW also maintained two small-scale repatriation assistance centers for returned victims of trafficking, but their effectiveness was limited by a small budget, inadequate international assistance, and a lack of trained personnel. According to the MLSW, the transit centers have assisted 1,044 victims of human trafficking since 2001, including 268 victims identified from January to July. These victims were formally identified as trafficking victims at shelters in Thailand and were repatriated and assisted under special regulations for victims of human trafficking. The centers also served victims of domestic violence.

The MLSW and the Lao Women's Union, in conjunction with NGOs, conducted validation studies on antitrafficking information campaigns and reintegration programs and began to refine antitrafficking projects, with a particular focus on tracking victims' reintegration and trying to provide economic opportunities for victims that would persuade them not to cross the border illegally again to look for work. Financial constraints limited the cash contributions the government could make, but it offered the services of ministerial personnel and meeting venues to NGOs doing antitrafficking work.

The NGO Assistance for Women in Distressing Situations (AFESIP) maintained a shelter in Vientiane Municipality to aid victims of human trafficking and sexual exploitation, particularly those in need of long-term counseling and assistance. AFESIP also monitored reintegration for victims who returned directly to their communities or participated in vocational training at other locations. Working with the MLSW, AFESIP opened a second beauty parlor in Sayaboury Province to provide training and economic support for victims of internal or international trafficking. The NGO and MLSW began construction of a second shelter in Savannakhet Province. The Lao Women's Union also opened a shelter in Vientiane for victims of trafficking and domestic violence. Both the AFESIP and LWU shelters received victims identified and repatriated through MLSW repatriation centers.

In July 2006 the government reissued a 2004 order to stop the practice of fining returnees and followed up with training for local immigration officials in some areas. The 2006 order and a campaign to educate provincial authorities, including workshops for officials throughout the year, greatly assisted in reducing the practice of fining trafficking victims and migrant laborers, as local and immigration authorities can no longer "punish" victims for a violation of domestic law in failing to procure an exit permit. In addition, the International Organization for Migration and NGOs expressed concerns that formally identified trafficking victims, some of whom had been awarded money through the Thai court systems, had funds stolen from them after returning. With support from UN Children's Fund, the National Commission for Mothers and Children continued an active program of support for victims.

The Lao Women's Union and the Youth Union, both party-sanctioned mass organizations, offered educational programs designed to inform girls and young women about the schemes of recruiters for brothels and sweatshops in neighboring countries and elsewhere. These organizations were most effective in disseminating information at the grassroots level.

Persons with Disabilities

The constitution provides citizens protection against discrimination but does not specify that these protections apply to persons with disabilities. Regulations promulgated by the MLSW and the Lao National Commission for the Disabled protect such persons against discrimination; however, the regulations lack the force of law. The law does not mandate accessibility to buildings or government services for persons with disabilities, but the MLSW has established regulations regarding building access and built some sidewalk ramps in Vientiane.

According to the Ministry of Justice, the government supports the rights of all persons, including those with disabilities, to vote and participate in civic affairs.

National/Racial/Ethnic Minorities

The law provides for equal rights for all minority citizens, and there is no legal discrimination against them; however, societal discrimination persisted. Moreover, critics charged that the government's resettlement program for ending slash-and-burn agriculture and opium production adversely affected many ethnic minority groups, particularly in the north. The program requires that resettled persons adopt paddy rice farming and live in large communities, ignoring the traditional livelihoods and community structures of these minority groups. International observers questioned whether the benefits promoted by the government--access to markets, schools, and medical care for resettled persons--outweighed the negative impact on traditional cultural practices. Even some minority groups not involved in resettlement, especially those in remote locations, faced difficulties, believing they had little voice in government decisions affecting their lands and the allocation of natural resources from their areas.

The Hmong are one of the largest and most prominent highland minority groups. There were a number of Hmong officials in the senior ranks of the government and the LPRP, including one Politburo member and five members of the LPRP Central Committee. However, societal discrimination persisted against the Hmong, and some Hmong believed their ethnic group could not coexist with the ethnic Lao population. This belief fanned separatist or irredentist beliefs among some Hmong. In recent years the government has focused limited assistance projects in Hmong areas to address regional and ethnic disparities in income. The government also provided for Hmong and Khmu language radio broadcasts but reportedly denied Khmu requests to use the Lao script as their official written language. The Khmu language does not have its own writing system.

Although there were very few substantiated reports of attacks by Hmong insurgent groups during the year, the government leadership maintained its suspicion of Hmong political objectives. Security forces continued operations to isolate and defeat or force the surrender of scattered pockets of insurgents and their families in remote jungle areas.

For several years the government has offered "amnesty" to insurgents who surrender to authorities. Since 2005 an estimated 2,000 have surrendered. While there were no reports of violence against those who surrendered, the government continued to deny international observers permission to visit these groups, and their status and welfare remained unknown at year's end. Because of their past activities, amnestied insurgents continued to be the focus of official suspicion and scrutiny.

The government generally refused offers from the international community to assist surrendered insurgents directly, but it allowed some aid from the UN and other international agencies to reach them as part of larger assistance programs.

Other Societal Abuses and Discrimination

Within lowland Lao society, despite wide and growing tolerance of homosexual practices, societal discrimination persisted against such practices.

There was no official discrimination against persons with HIV/AIDS, but social discrimination existed. The government actively promoted tolerance of those with HIV/AIDS, and during the year it conducted awareness campaigns to educate the population and promote understanding toward such persons.

Section 6 Worker Rights

a. The Right of Association

Under the law workers may form unions within government organizations or in private enterprises without previous authorization as long as they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. According to the FLTU, there were 3,042 trade unions nationwide, including in most government offices, with a total FLTU membership of 112,557. Most of the FLTU members worked in the public sector.

The government employed the majority of salaried workers, although this was changing as the government privatized state enterprises and otherwise reduced the number of its employees. Subsistence farmers made up an estimated 80 percent of the work force.

b. The Right to Organize and Bargain Collectively

There is no right to organize and bargain collectively. The law stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the MLSW. The law generally was not enforced by the MLSW, especially in dealings with joint ventures in the private sector. Labor disputes reportedly were infrequent. According to labor activists, the FLTU needed government permission to enter factories and had to provide advance notice of such visits, rendering it powerless to protect workers who filed complaints.

The government sets wages and salaries for government employees, while management sets wages and salaries for private business employees.

Strikes are not prohibited by law, but the government's ban on subversive activities or destabilizing demonstrations made strikes unlikely, and none were reported during the year.

The law stipulates that employers may not fire employees for conducting trade union activities, lodging complaints against employers about law implementation, or cooperating with officials on law implementation and labor disputes, and there were no reports of such cases. Workplace committees were used for resolving complaints, but there was no information on how effective these committees were in practice.

There are no operational export processing zones in the country.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced labor except in time of war or national disaster, during which time the state may conscript laborers. The law also prohibits forced or compulsory labor by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

Under the law children under age 15 may not be recruited for employment except to work for their families, provided the work is not dangerous or difficult. Many children helped their families on farms or in shops, but child labor was rare in industrial enterprises. Some garment factories reportedly employed a very small number of underage girls. The Ministries of Public Security and of Justice are responsible for enforcing these provisions, but enforcement was ineffective due to a lack of inspectors and other resources.

e. Acceptable Conditions of Work

The daily minimum wage for the approximately 7,000 factory workers was set at \$1.19 (11,154 kip); the monthly minimum wage was \$30.98 (290,000 kip). These minimum wages were insufficient to provide a decent standard of living for a worker and family. The minimum wage for several hundred thousand civil servants was raised from \$21.37 to \$26.71 (from 200,000 to 250,000 kip) per month in the government's 2007-8 budget. Although lower than the minimum wage for factory workers, civil servants often received other government benefits and housing subsidies. Some piecework employees, especially on construction sites, earned less than the minimum wage.

The law provides for a workweek limited to 48 hours (36 hours for employment in dangerous activities) and at least one day of rest per week. Overtime may not exceed 30 hours per month, and each period of overtime may not exceed three hours. The overtime pay rate is 150 percent for work from 5 p.m. to 10 p.m., 200 percent from 10 p.m. until 8 a.m., 250 percent from 8 a.m. to 10 a.m. on Lao National Day, and 300 percent after 10 a.m. on Lao National Day.

The law provides for safe working conditions and higher compensation for dangerous work. Employers are responsible for compensating a worker injured or killed on the job, or the worker's family. This requirement was generally fulfilled by employers in the formal economic sector. The law also mandates extensive employer responsibility for those disabled while at work, and this provision appeared to be enforced effectively. The MLSW is responsible for workplace inspections and stated that it was able to increase inspections during the past several years. According to the Labor and Social Welfare Department of Vientiane Capital, there are two types of inspections: regular inspections announced in advance, and urgent or special cases. Department and district officials undertake unannounced inspections when notified that a workplace has violated safe working standards. However, the MLSW lacked the personnel and budgetary resources to enforce the law effectively. The law has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

There were a number of illegal immigrants in the country, particularly from Vietnam and China, and they were vulnerable to exploitation by employers.





Malaysia

Country Reports on Human Rights Practices - 2007

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Malaysia is a federal constitutional monarchy with a population of approximately 26.9 million. It has a parliamentary system of government headed by a prime minister selected through periodic, multiparty elections. The National Front, a coalition of political parties dominated by the United Malays National Organization (UMNO), has held power since 1957. The most recent national elections, in March 2004, were conducted in a generally transparent manner, but the opposition complained of the ruling coalition's exploitation of the powers of incumbency. 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 some areas. The government abridged citizens' right to change their government. No independent body investigated deaths that occurred during apprehension by police or while in police custody. Other problems included police abuse of detainees, overcrowded prisons, use of four statutes to arrest and detain persons without charge or trial, and persistent questions about the impartiality and independence of the judiciary. The civil courts have allowed the Shari'a (Islamic law) courts to exercise jurisdiction in cases involving families that included non-Muslims. The government continued to restrict freedom of press, association, and assembly and placed some restrictions on freedom of speech and freedom of religion. Violence against women remained a problem. Although the government passed antitrafficking legislation during the year, the country was a destination and transit point for trafficking in women and girls for the purposes of prostitution and domestic servitude. Longstanding government policies gave preferences to ethnic Malays in many areas. Court backlogs and limitations on the right to organize unions in some industries impeded workers' rights. Migrant workers faced some discrimination and exploitation.

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, local nongovernmental organizations (NGOs) reported that police killed 16 persons while apprehending them, down from 20 such killings in 2006. Local NGOs also reported that 11 persons died in police custody, down from 19 such deaths in 2006.

In November 2006 police charged police chief inspector Azilah Hadri and police corporal Sirul Azhar Umar with the October 2006 murder of Altantuya Sharibu, a Mongolian citizen and part-time translator. The prosecution also charged Abdul Razak Baginda, a well-known political analyst and advisor to the deputy prime minister, with abetting murder for allegedly ordering her death. The prosecution claimed the two police officers shot Altantuya in the head and then destroyed her body with explosives. The trial remained ongoing at year's end.

The federal criminal investigation department investigated 57 deaths in custody dating back to 2000. The authorities did not release any results of the investigation and were not expected to do so.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

No law specifically prohibits torture; however, laws that prohibit "committing grievous hurt" encompass torture. There were no reports of torture by police. According to the government, investigations followed every report of prisoner abuse; however, the government generally did not release information on the results of internal police investigations, and information regarding punishment of those responsible for abuses was limited.

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes, such as narcotics possession, criminal breach of trust, and alien smuggling. The law prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. Some state Shari'a laws, which bind only Muslims, also prescribed caning. Caning, carried out with a half-inch-thick wooden cane, commonly causes welts and at times scarring. The law exempted males older than 50 and women from caning. Male children 10 years of age and older may be given up to 10 strokes of a "light cane."

Prison and Detention Center Conditions

Prison overcrowding, concentrated near major cities, remained a serious problem. Eleven of 23 facilities experienced occupancy rates more than 50 percent above designed capacity. For example, the Simpang Renggam Prison held more than 4,000 inmates although its design capacity was for 2,100 inmates. Water problems made prisoners prone to skin infections and other illnesses. In September 2006 officials from SUHAKAM, the Human Rights Commission of Malaysia, reported that detainees under investigative detention or awaiting trial accounted for a significant portion of the overcrowding problem in prisons.

In November the Ministry of Home Affairs reported that the country's 29 prisons held 34,917 prisoners, exceeding the prison system's planned maximum capacity of 28,900 prisoners.

NGOs and international organizations involved with migrant workers and refugees made credible allegations of inadequate food and medical care, poor sanitation, and prisoner abuse in the 15 government detention camps for illegal immigrants. An NGO with access to the camps claimed overcrowding, deficient sanitation, and lack of medical screening and treatment facilitated the spread of disease. During the year the government allowed local NGOs with mobile medical clinics into the camps.

The government does not permit prison visits by the International Committee of the Red Cross. The authorities generally did not permit NGOs and the media to monitor prison conditions. The government approved visits by SUHAKAM officials on a case-by-case basis.

The UN High Commissioner for Refugees (UNHCR) had limited access to immigrant detention centers. During the year UNHCR staff members conducted numerous

visits at various prisons and immigrant detention facilities located throughout the country. By law anyone entering the country without appropriate documentation is considered illegal and faces mandatory imprisonment for a maximum of five years, a fine not to exceed \$3,000 (10,000 ringgit), or both, and mandatory caning not to exceed six strokes. The UNHCR intervened to prevent caning and deportation of detained refugees and persons of concern.

d. Arbitrary Arrest or Detention

The constitution stipulates that no person may be incarcerated unless in accordance with the law. However, the law allows investigative detention, to prevent a criminal suspect from fleeing or destroying evidence while police conduct an investigation. Several laws also permit preventive detention to incarcerate an individual suspected of criminal activity or to prevent a person from committing a future crime. Such laws severely restrict, and in some cases eliminate, access to timely legal representation and a fair public trial.

Role of the Police and Security Apparatus

The Royal Malaysia Police is under the command of the inspector general of police (IGP), who reports to the minister of internal security. The prime minister served as the minister of internal security. The IGP is responsible for organizing and administering the police force. The police force consisted of approximately 93,350 officers, of whom 4,500 were women.

Reported police offenses included accepting bribes, theft, and rape; punishments included suspension, dismissal, and demotion. Police officers are subject to trial by the civil courts. Prime Minister Abdullah Badawi, who was concurrently minister for internal security, reported that there were 25 disciplinary actions against police officers during the year.

The government continued to focus police reform efforts on improving salaries, quarters, and general living conditions of police officers. The status of other reforms recommended in a 2005 police commission report, including the formation of an independent police complaints and misconduct commission, remained uncertain. NGOs complained that the government's efforts to implement the 2005 commission's recommendations lacked transparency.

The police-training center continued to include human rights awareness training in its courses. SUHAKAM conducted human rights training for police three times during the year as part of its regular annual programming.

The Home Affairs Ministry relied primarily upon the People's Volunteer Corps (RELA), consisting of approximately 494,000 citizens, to conduct raids and detain suspected illegal migrants. RELA members received a monthly stipend and a bounty of \$22 (80 ringgit) per person detained. Local and international NGOs, refugees, legal foreign workers, persons of concern, and illegal migrants all reported various abuses by members of RELA including rape, beatings, extortion, theft, pilfering homes, destroying UNHCR and other status documents, and pillaging refugee settlements. According to press reports, after one Indonesian domestic worker escaped an abusive employer, a RELA member took her to his residence. There, he imprisoned and raped her repeatedly, during which time she became pregnant. After a month another RELA member rescued her. An informed source reported that although the victim submitted a police report, the only disciplinary action taken was removing the accused from RELA. A RELA official reportedly offered the woman approximately \$1,430 (5,000 ringgit) to keep the matter quiet.

In May the press reported a food court operator filed a lawsuit against RELA for abuse of power and corruption. The plaintiff claimed that a RELA officer entered his food court and displayed his firearm without reason. The RELA member detained four food court employees and demanded approximately \$570 (2,000 ringgit) from the employer for their release.

Arrest and Detention

The law permits police to arrest individuals for some offenses without a warrant and hold suspects for 24 hours without charge. A magistrate may extend this initial detention period for up to two weeks. Although police generally observed these provisions, a 2005 police commission report noted that police sometimes released suspects and then quickly rearrested them and held them in investigative custody.

Police often denied detainees access to legal counsel and questioned suspects without giving them access to counsel. Police justified this practice as necessary to prevent interference in ongoing investigations, and judicial decisions generally upheld the practice. The commission stated that an "arrest first, investigate later" mentality pervaded some elements of the police force and recommended that detention procedures be reviewed to prevent abuse.

The law allows the detention of a person whose testimony as a material witness is necessary in a criminal case if that person is likely to flee. Bail is usually available for those accused of crimes not punishable by life imprisonment or death. The amount and availability of bail is determined at the judge's discretion. When bail is granted, accused persons usually must surrender their passports to the court.

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years. In May the government introduced the country's first night court to help alleviate the number of backlogged cases in civil courts.

In August, after a relative inquired about his whereabouts, a court released a 19-year-old citizen originally detained when he failed to produce his national identity card (MyKad) for a police officer. He was detained for six months during which time police did not allow him to contact family members or meet with legal counsel. The law requires citizens to carry their MyKad at all times.

In July immigration officials detained two women, who claimed to be princesses of a fictitious country, for illegally entering the state of Sarawak from Brunei. A judge ordered their release and deportation after 51 days' detention. Upon their release immigration officials again arrested them and brought them before a magistrate's court. At year's end the case was pending.

Four preventive detention laws permit the government to detain suspects without normal judicial review or filing formal charges: the Internal Security Act (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance, the Dangerous Drugs (Special Preventive Measures) Act, and the Restricted Residence Act.

The ISA empowers police to arrest without warrant and hold for up to 60 days any person who acts "in a manner prejudicial to the national security or economic life of Malaysia." During the initial 60-day detention period in special detention centers, the ISA allows for the denial of legal representation and does not require that the case be heard in open court. Upon the recommendation of an advisory board, the internal security minister may authorize further detention for up to two years, with an unlimited number of two-year periods to follow. In practice the government rarely authorized ISA detention beyond two two-year terms. Some of those released before the end of their detention period are subject to "imposed restricted conditions." These conditions limit freedom of speech, association, and travel inside and outside the country.

Even when there are no formal charges, the ISA requires that authorities inform detainees of the accusations against them and permit them to appeal to an advisory board for review every six months. However, advisory board decisions and recommendations are not binding on the internal security minister, not made public, and often not shown to the detainee. In past years local human rights NGOs claimed police at times intimidated and harassed family members of ISA detainees to prevent them from taking legal action against the police.

The Bar Council has asserted that ISA detentions should be subject to full judicial review; however, the courts do not concur with this interpretation. Courts are not allowed to review procedural challenges to ISA detentions but can submit habeas corpus applications. Detainees freed by judicial order were nearly always immediately detained again.

In September a local NGO stated that there were approximately 90 persons in detention under the ISA. The 90 included 56 suspected of involvement with terrorist groups, 15 held for forging currency, and 19 held for falsification of documents or other offenses. The longest-held ISA detainee has been detained for approximately six years. According to the local human rights NGO, SUARAM, authorities had not formally charged any of these detainees with a criminal offense. The government required released ISA detainees to remain within a fixed area of residence and prohibited them from international travel.

In October former ISA detainee Abdul Malek Hussin won a lawsuit against the government over his arrest and torture in 1998. The Kuala Lumpur High Court ruled that the authorities unlawfully detained and then assaulted and tortured him while he was in ISA custody. The court awarded him \$780,000 (2.5 million ringgit).

Under the Emergency Ordinance, the internal security minister may issue a detention order for up to two years against a person if he deems it necessary for the protection of public order, "the suppression of violence, or the prevention of crimes involving violence." A local NGO reported that more than 1,000 individuals were detained under the Emergency Ordinance. The authorities used the Emergency Ordinance on suspected organized crime figures.

Provisions of the Dangerous Drugs Act give the government specific power to detain suspected drug traffickers without trial for up to 39 days before the internal security minister must issue a detention order. Once the Ministry of Internal Security issues the detention order, the detainee is entitled to a court hearing, which has the authority to order the detainee's release. Authorities may hold suspects without charge for successive two-year intervals with periodic review by an advisory board, whose opinion is binding on the minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. Police frequently detained suspected narcotics traffickers under this act after courts acquitted them of formal charges. According to the National Anti-Drug Agency, the government detained 433 persons under the preventive detention provisions of the act during the first six months of the year, compared with 1,296 persons during the same period in 2006.

The Restricted Residence Act allows the minister of internal security to place individuals under restricted residence away from their homes. These persons may not leave the residential district assigned to them, and they must present themselves to police on a daily basis. As under the ISA, authorities may renew the term of restricted residence every two years. The minister is authorized to issue the restricted residence orders without any judicial or administrative hearings. The government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted.

e. Denial of Fair Public Trial

Three constitutional articles provide the basis for an independent judiciary, and the government generally respected these provisions in practice. However, other constitutional provisions, legislation restricting judicial review, and additional factors limited judicial independence and strengthened executive influence over the judiciary.

The constitution does not directly vest judicial powers in the courts but rather provides that parliament confers judicial powers. It also confers certain judicial powers on the attorney general, including the authority to instruct the courts on which cases to hear, the power to choose venues, and the right to discontinue cases. The attorney general controlled and directed all criminal prosecutions and assumed responsibility for judicial assignments and transfers. The prime minister's recommendation determined senior judge appointments.

Members of the bar, NGO representatives, and other observers expressed serious concern about the general decline of judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. On September 19, former deputy prime minister and current opposition political figure, Anwar Ibrahim released an eight-minute videotape of a purported 2002 conversation between a senior lawyer with a reputation as a "fixer" and a senior judge discussing arrangements for assigning cases to "friendly" judges. The revelations caused the public to question the credibility and transparency of the judiciary. The Bar Council lodged a complaint with the Anti-Corruption Agency (ACA), and on September 26, approximately 2,000 lawyers and supporters marched to the prime minister's office demanding that the government establish a royal commission to investigate the alleged judicial corruption. In December the government formed a royal commission to investigate the videotape. The Bar Council president said that the council desired that the commission's scope of inquiry should be wider than just the videotape and opined that the commission's terms of reference gave it sufficient scope to conduct a thorough inquiry.

Sessions courts heard minor civil suits and criminal cases. High courts have original jurisdiction over all criminal cases involving serious crimes. Juvenile courts try offenders below age 18. The special court tries cases involving the king and the sultans. The Court of Appeal has appellate jurisdiction over high court and sessions court decisions. The Federal Court, the country's highest court, reviews court of appeal decisions.

Indigenous groups in the states of Sarawak and Sabah have a system of customary law to resolve matters such as land disputes between tribes. Although rarely used, penghulu (village head) courts may adjudicate minor civil matters.

Shari'a laws, administered by state authorities through Islamic courts, bind all Muslims, most of whom are ethnic Malays. The laws and the degree of their enforcement varied from state to state.

The armed forces have a separate system of courts.

Trial Procedures

English common law is the basis for the secular legal system. The constitution states that all persons are equal before the law and entitled to equal protection of the law. Trials are public, although judges may order restrictions on press coverage. Juries are not used. Defendants have the right to counsel at public expense if requested by an accused individual facing serious criminal charges. Strict rules of evidence apply in court. Defendants may make statements for the record to an investigative agency prior to trial. Limited pretrial discovery in criminal cases impeded defendants' ability to defend themselves. Defendants are presumed innocent until proven guilty and may appeal court decisions to higher courts. The law limits a defendant's right to appeal in some circumstances. The government stated that the limits expedite the hearing of cases in the upper courts, but the Bar Council declared that they impose excessive restrictions on appeals.

In firearm and certain national security cases, a lower standard for accepting self-incriminating statements by defendants as evidence is in effect. Regulations also allow the authorities to hold an accused for an unspecified time before making formal charges.

In criminal cases, police sometimes used tactics that impaired a defendant's due process rights. For example, during a trial police summoned and interrogated witnesses who had previously given testimony not helpful to the prosecution. Police also used raids and document seizures to harass defendants.

Shari'a courts do not give equal weight to the testimony of women. Many NGOs also complained that women did not receive fair treatment from Shari'a courts, especially in matters of divorce and child custody. In November, in a first, a 24-year-old woman was appointed as a judge on the lower Shari'a court. The president of the Shari'a Lawyers Association questioned the appointment and expressed doubt that the woman had adequate experience due to her age.

Political Prisoners and Detainees

There were no known political prisoners or detainees.

Civil Judicial Procedures and Remedies

The structure of the civil judiciary mirrors that of the criminal courts. A large case backlog often resulted in delayed provision of court-ordered relief for civil plaintiffs. The

government and government officials can be sued in court for alleged violations of human rights.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Various laws prohibit arbitrary interference with privacy rights; however, authorities infringing on citizens' privacy rights in some cases. Provisions in the security legislation allow police to enter and search without a warrant the homes of persons suspected of threatening national security. Police also may confiscate evidence under these provisions. Police used this legal authority to search homes and offices, seize computers, books and papers, monitor conversations, and take persons into custody without a warrant. The government monitored e-mails sent to Internet blog sites and threatened to detain anyone sending content over the Internet that the government deemed threatening to public order or security.

In November 2006 the Federal Islamic Development Department (JAKIM) announced revised guidelines for conducting raids on premises where it suspected Muslims engaged in offenses such as gambling and consumption of alcohol. The new guidelines authorize JAKIM officials to enter private premises without a warrant if they deem swift action necessary.

In February Prime Minister Abdullah asked the religious police to quit "snooping around" for couples committing khalwat, or close physical proximity, an offense under Shari'a law. The prime minister said there was no need to invade privacy.

In corruption investigations, after a senior police official involved in the investigation submits a written application, the law empowers a deputy public prosecutor to authorize interception of any messages sent or received by a suspect. Information obtained in this way is admissible as evidence in a corruption trial.

Amendments to the law that took effect January 1 provide the security forces broader authority to surreptitiously install surveillance devices on private property. In addition, public prosecutors may authorize police to intercept postal and telecommunications messages if a prosecutor judges these likely to contain information regarding a terrorist offense. Intercepted communications from such efforts are admissible in court.

The law permits the Ministry of Internal Security to place criminal suspects under restricted residence in a remote district away from their homes for two years.

The government bans membership in unregistered political parties and organizations.

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions, and during the year children were removed from the custody of a non-Muslim parent and placed in the care of a Muslim parent or grandparent.

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, some important legal limitations exist. In practice the government restricted freedom of expression and intimidated journalists into practicing self-censorship. According to the government, it imposed restrictions on the media to protect national security, public order, and friendly relations with other countries.

The law provides that legislation "in the interest of security (or) public order" may restrict freedom of speech. For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. The government used the Sedition Act, the Official Secrets Act, the Printing Presses and Publications Act, criminal defamation laws, and other laws to restrict or intimidate political speech. The election law makes it an offense for a candidate to "promote feelings of ill will, discontent, or hostility." Violators could be disqualified from running for office.

The Printing Presses and Publications Act requires domestic and foreign publications to apply annually to the government for a permit, makes publication of "malicious news" a punishable offense, and empowers the minister of internal security to ban or restrict publications believed to threaten public order, morality, or national security. It also prohibits court challenges to suspension or revocation of publication permits. According to the government, these provisions ensured that the media did not disseminate "distorted news" and were necessary to preserve harmony and promote peaceful coexistence in a multiracial country. During the year the ministry continued to review, censor, and confiscate many foreign publications. In February SUARAM listed 57 books banned by the government. Among the banned books is a Tamil-language book, *March 8*, which discussed the 2001 Kampung Medah racial clashes between Malays and Indians.

Eleven national daily newspapers--three in English, four in Malay, and four in Chinese--dominated print journalism. Parties in the ruling coalition owned or controlled a majority of shares in two of the three English and all Malay dailies. Politically well-connected businesspersons owned the third English-language newspaper and all four major Chinese-language newspapers.

Criminal defamation is punishable by a maximum of two years in jail, a fine, or both. This along with the government power over annual license renewal and other policies inhibited independent or investigative journalism and resulted in extensive self-censorship. Nonetheless, the English-, Malay-, and Chinese-language press sometimes provided balanced alternative views on sensitive issues. The mainstream press occasionally printed editorials and interviews with opposition leaders that included criticism of government policy.

The appeal of human rights monitor Irene Fernandez of her 2003 conviction is scheduled to be heard in April 2008. The court sentenced her to 12 months' imprisonment for malicious publication of false material regarding abuse and torture of migrant workers at detention camps. She remains free on bail in the case, which began in 1996.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the government requires the annual renewal of publishing permits and limits circulation to organization members only. Printers often were reluctant to print publications that were critical of the government. Unlike in the past, the government brought no libel suits against the media during the year.

Radio and television stations were as restricted as the print media and were almost uniformly supportive of the government. News of the opposition was tightly restricted and reported in a biased fashion. Opposition party leaders alleged that during the April by-election in Ijok the mainstream media provided minimal coverage for their candidate, intensely negative reporting about their party's senior figure, and extensive reporting on the ruling party candidate.

Internet television faced no such restrictions, and the Islamic Party of Malaysia (PAS) continued daily Internet television broadcasts.

Television stations censored programming in line with government guidelines. The government banned some foreign newspapers and magazines and, occasionally, censored foreign magazines or newspapers, most often for sexual content; however, the Internet provided a means to bypass such restrictions. The government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or broadcast on radios.

The government generally restricted remarks or publications, including books, that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at mosques in the states controlled by the governing coalition. Some state governments banned certain Muslim clergymen from delivering sermons. The Religious Affairs Department continued to conduct background checks on all clergymen. The government maintained its ban on the weekly Chinese-language newspaper *Epoch Times*. In August the government suspended the Tamil-language newspaper *Makkal Osai* for one month for publishing an image of Jesus Christ with a cigarette and beer can. The Ministry of Internal Security banned 51 books with religious elements, including *The Life and Times of Muhammad* by John Glubb, *Now You Can Know*

What Muslims Believe by Ministries to Muslims, *What Is Ahmadiyah Movement* by Mirza Bahiruddin Mahmud, and *Tasawuf in the Quran* by Mir Aliudin.

Internet Freedom

There were no government restrictions on access to the Internet. However, in July Prime Minister Abdullah warned that Internet users, particularly bloggers, "do not have the freedom to do whatever they like...It is not for them [bloggers] to claim that they are immune from the law simply because their Web sites are hosted overseas where they have the right to say anything."

In August a university student studying overseas released a satirical video highlighting political corruption. The student rewrote the national anthem lyrics, and the video was widely viewed. Responding to the video, UMNO Youth chief Hishammuddin Hussein said, "UMNO Youth warns that freedom has its limits and we will not tolerate those who touch on the issue of national stability, harmony, cultural values, and the personality of national leaders." He called for legislation that would allow the government to recall from overseas citizens who "smeared the country's image."

On July 13, police detained and held incommunicado Nathaniel Tan, a prominent political blogger, activist, and staff member of the opposition People's Justice Party for five days allegedly for violating the Official Secrets Act. Police did not allow Tan contact with his family or legal counsel until after a legal activist spotted him with police at the magistrate's court. Police allegedly attempted to have Tan arraigned without the presence of his lawyer. On July 25, police questioned for eight hours the online political commentator Raja Petra Kamaruddin. In both cases, senior UMNO party members filed police reports alleging the men had posted seditious articles on their blogs. Both Tan and Kamaruddin regularly published articles and commentary on their Web sites regarding political corruption. Police investigations of both Tan and Kamaruddin's alleged criminal activities were ongoing at year's end, and neither had had formal charges filed against them.

Internet access was widely available, and Internet subscriptions totaled approximately 13.5 million at the end of 2006; however, criminal defamation and preventive detention laws generated some self-censorship from local Internet content sources such as bloggers, Internet news providers, and NGO activists. The Malaysian Communications and Multimedia Commission (MCMC) shut down 11 Web sites for contravening rules and regulations concerning the publication of information on the Internet. Neither the MCMC nor the government released the names of the 11 Web sites.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. Previously, the government stated that it did not intend to impose controls on Internet use but that it would punish the "misuse" of information technology. The CMA permits punishment of the owner of a Web site or blog for allowing content of a racial, religious, or political nature that a court deems offensive.

Police continued investigations of Malaysiakini, the country's largest independent Internet news organization. One investigation stemmed from an erroneous report that identified police officials as possible participants in an assault on former prime minister Mahathir Mohamad in July 2006. Another investigation concerned the National Petroleum Company's (Petronas) 2005 accusation of criminal defamation.

Academic Freedom and Cultural Events

The government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and enforced restrictions on teachers and students who expressed dissenting views. The government continued to require that all civil servants, university faculty, and students sign a pledge of loyalty to the king and the government. Opposition leaders and human rights activists claimed that the government used the loyalty pledge to restrain political activity among civil servants, academics, and students. In 2004 University Utara Malaysia officials fired a university lecturer and his wife, who was also a lecturer at the university, for refusing to sign the pledge. Subsequently the lecturer wrote about his termination, and the university demanded a public apology for the published articles, claiming they tarnished the university's reputation. The lecturer refused and threatened the university with legal action. In August the university filed a lawsuit seeking compensation for tuition and salaries the university paid the couple while they were pursuing their doctorates overseas.

Although faculty members sometimes were publicly critical of the government, there was clear self-censorship among public university academics whose career advancement and funding depended on the government. Private institution academics practiced self-censorship as well, fearing that the government might revoke the licenses of their institutions. The law also imposes limitations on student associations and on student and faculty political activity.

The government has long stated that students should be apolitical and it used that assertion as a basis for denying political parties access to student forums. According to student leaders, academic authorities sometimes expelled or fined students who signed antigovernment petitions. School authorities did not restrain propagation of government views on controversial issues on school campuses.

The government censored and banned films for profanity, nudity, sex, violence, and certain political and religious content. Among films banned during the year was *The Village People Radio Show*. According to the censorship board, the film about Malay communist guerrillas now living in Thailand was too sympathetic toward communism and too critical of the government. Also initially banned but subsequently allowed a showing in one theater was *I Don't Want To Sleep Alone*. The censor board determined that the film about migrant laborers portrayed Kuala Lumpur negatively.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution states that all citizens have "the right to assemble peaceably and without arms"; however, the government placed significant restrictions on this right through use of the Public Order Ordinance and the Police Act. The ordinance restricts public assemblies that could damage security and public order, while the act requires police permits for all public assemblies except for workers on picket lines. The Police Act defines a public assembly as a gathering of five or more persons.

The decision to grant a permit rests with the district police chief; however, senior police officials and political leaders have influenced the granting or denial of some permits. Police granted permits routinely to government and ruling coalition supporters but used a more restrictive approach with government critics, opposition parties, and human rights activists.

On September 8, police in Terengganu used water cannons and tear gas to disrupt an opposition party-sponsored rally on election reform after demonstrators refused to disperse. In the ensuing violence, one officer shot and injured two demonstrators, one critically. Police and government spokespersons alleged that the officer fired in self-defense and charged one of the shooting victims with attempted murder. The rally organizers alleged that undercover police within the crowd acted as agents provocateurs.

On November 10, in defiance of warnings by the prime minister and the police, tens of thousands of demonstrators led by major opposition political leaders assembled and marched to the National Palace to petition the king for electoral reform measures. The security forces deployed approximately 4,000 personnel (firefighters, RELA, and riot police) and used water cannons (and in some instances tear gas) to disperse the crowd at two assembly points. However, the police allowed the demonstrators to proceed to the palace. After the demonstrators had presented their petition to a palace official, the police asked them to disperse, and demonstrators complied. The police reported that 245 persons were detained at various times during the demonstration, most briefly, and organizers said that a least seven persons were beaten and kicked by police, including one man whose leg was broken.

On November 25, the Hindu Rights Action Force (HINDRAF), a small activist NGO, organized a demonstration in Kuala Lumpur with the intent to present the British High Commission with a memorandum asking for Queen Elizabeth II's intervention on their behalf. HINDRAF's leaders intended to highlight the marginalization of the country's Indian minority. Approximately 20,000 demonstrators gathered at multiple points around the city in defiance of warnings from government officials and the police. Police

actively dispersed the crowds of demonstrators over a period of six hours, repeatedly using tear gas and water cannons. During and after the rally, the police arrested approximately 400 persons. The police released the majority of those detained, but the attorney general charged 31 demonstrators with, among other things, the attempted murder of a police officer, illegal assembly, and destruction of property. Human rights activists, opposition leaders, and other civil society leaders condemned the attempted murder charges as politically motivated and meant to intimidate others from participating in future demonstrations. The attorney general dropped the attempted murder charge in December.

On December 9, police arrested eight persons, including five lawyers, for participating in an "illegal assembly." The eight had organized a march involving approximately 60 persons to mark International Human Rights Day in Kuala Lumpur. Police also arrested the Bar Council's Human Rights Committee chair, Edmond Bon, when he tried to prevent city officials from removing human rights day banners, which were critical of government practices and political corruption, from the Bar Council's building. All nine remained free on bail with trials scheduled for early in 2008.

On December 11, police arrested 26 members of the Coalition for Clean and Fair Elections, a coalition of opposition parties and NGOs seeking reforms to the electoral process. The group was attempting to deliver a memorandum to Parliament protesting the extension of the Election Commission chief's term past retirement age through a constitutional amendment. Police claimed the group had breached a court order, obtained by the police the previous day, which banned gatherings in front of the Parliament. The court released on bail 17 persons from the December 11 arrestees. The police released the remaining nine persons unconditionally.

On December 13, police arrested five HINDRAF leaders--P. Uthayakumar, M. Manoharan, R. Kenghadharan, Ganabathirau, and T. Vasantha Kumar--under the ISA and indicated they would be held without trial for a period of two years. After the November 25 rally, government officials, the police, and the government-influenced mainstream media reports on HINDRAF included claims the NGO was a militant organization with links with foreign militant groups including the Liberation Tigers of Tamil Ealam and the Hindu fundamentalist group, National Volunteer's Organization (Rashtriya Swayamsevak Sangh). An official from the Office of the Prime Minister, in a published statement, explained the decision to use ISA as follows: "The government had warned HINDRAF not to engage in activities that would inflame communal tensions and had charged its leaders in court for sedition. This did not stop the spread of inflammatory rhetoric. On two occasions, the leaders of HINDRAF issued implicit threats that the group would turn to violence if its demands were not met. The Royal Malaysian Police have also uncovered links with international terrorist organizations. While the government is determined to take action against the five individuals in open court, it is also determined to preempt any unfortunate incidents that may be inspired by the irresponsible words and deeds of a small minority." Local and international NGOs and civil society groups condemned the detention under the ISA and appealed to the government to charge the five in an open court.

A SUHAKAM public inquiry into the handling of a peaceful 2006 demonstration over fuel and electricity price increases found that the police abused their powers. SUHAKAM named officers who used excessive force, and the police transferred the accused to other districts. The police authorities did not publicly reveal what other disciplinary action, if any, was taken against the accused officers.

Freedom of Association

The constitution provides for the right of association; however, the government placed significant restrictions on this right, and certain statutes limit it. Under the Societies Act, only registered organizations of seven or more persons may function as societies. The government sometimes refused to register organizations or imposed conditions when allowing a society to register. The government prohibited the Communist Party and its affiliated organizations from registering. It also has blocked the registration of the Socialist Party of Malaysia since 1999. The government has the power to revoke the registration of an existing society for violations of the act, a power that it enforced selectively against political opposition groups.

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity. Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the government maintained that the act still was necessary.

c. **Freedom of Religion**The constitution provides for freedom of religion; however, the government placed some restrictions on this right. The constitution defines all ethnic Malays as Muslims and stipulates that Islam is the official religion. The government significantly restricted the practice of Islamic beliefs other than Sunni Islam. Non-Muslims, who constitute approximately 40 percent of the population, including large Buddhist, Christian, Hindu, and Sikh communities, were free to practice their religious beliefs with few restrictions. The government provided financial support to Islamic religious establishments and provided more limited funding to non-Islamic religious communities. State authorities imposed Islamic religious laws administered through Shari'a courts on all ethnic Malays (and other Muslims) in some civil matters but generally did not interfere with the religious practices of the non-Muslim community. Over the past several years, the civil courts have ceded jurisdictional control to Shari'a courts in certain areas of family law involving disputes between Muslims and non-Muslims.

Prime Minister Abdullah, a proponent of Islam Hadari ("civilizational Islam"), continued to emphasize religious tolerance. On July 17, Deputy Prime Minister Najib Razak stated the country was an Islamic and not a secular state. Leading members of the non-Muslim community and senior lawyers publicly challenged this and argued that the country was constitutionally a secular state. After several days of public discourse, the government prohibited the mainstream media from addressing the debate except to report statements by the prime minister and deputy prime minister. On August 4, the prime minister stated the country was neither secular nor theocratic, but a parliamentary democracy.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits. The government did not recognize some religious groups as such; these groups sometimes registered themselves as businesses under the Companies Act.

The government maintained that views held by "deviant" groups endangered national security. According to the Jakim Web site, the government identified and prohibited to Muslims 56 deviant teachings as of September. They included Shi'a, transcendental meditation, and Baha'i teachings. The government asserted that "deviationist" teachings could cause divisions among Muslims. Religious authorities, with the consent of a Shari'a court, arrested and detained members of groups deemed "deviationist" in order to "rehabilitate deviants" and return them to the "true path of Islam." The religious affairs minister stated that members of these groups were subject to prosecution, detention under the ISA, or rehabilitation. Neither the government nor religious authorities provided data on the number of persons subjected to prosecution or rehabilitation.

The government continued to monitor the activities of the Shi'a minority, and state religious authorities reserved the right to detain Shi'a followers under the ISA as members of a "deviant sect." According to the government, it did not detain anyone under the ISA for religious reasons during the year.

In August Khatijah Ali, a cult leader, renounced her teachings before the Selangor State Religious Affairs Department, which had declared her teachings deviant in 1998.

The Selangor Islamic Affairs Department continued efforts to stop the spread of the banned al-Arqam Islamic group. The Federal Ministry of Internal Security continued to investigate the group as a "threat to national security." Authorities strictly monitored the group.

The government generally respected non-Muslims' right of worship; however, state governments have authority over the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. State authorities sometimes granted approvals for building permits very slowly. Minority religious groups reported that state governments sometimes blocked construction using restrictive zoning and construction codes.

The government demolished unregistered religious statues and places of worship. Several NGOs complained of the demolition of unregistered Hindu temples and shrines located on both private and government-owned lands. The structures were often located on government-owned plantations, which had been private property prior to independence. In May 2006 persons who used a 150-year-old unregistered temple sought a court injunction against a planned demolition by Negeri Sembilan state authorities. The court case remained open at year's end.

In June following the demolition of a 110-year-old temple, approximately 200 Hindus demonstrated in front of the Attorney General's Office. The Attorney General's office did not respond to the protest. In July local authorities in Melaka demolished another unregistered temple. Local NGOs condemned the demolition and urged the authorities to be sensitive when dealing with places of worship.

In practice, Shari'a law as interpreted in the country does not permit Muslims to convert to another religion. In several court rulings during the year, secular courts ceded jurisdiction to Shari'a courts in matters involving conversion to or from Islam. Shari'a courts routinely denied conversion from Islam requests. In May the Federal Court upheld a 2005 lower court decision that the civil courts did not have jurisdiction over the conversion case of Lina Joy and that Joy should take the matter to Shari'a court.

In January Revathi Masoosai, a 29-year-old ethnic Indian woman whose parents converted to Islam, was arrested after she went to the Shari'a court to change her Muslim name and religion on her identity card to reflect her religion as Hinduism. Revathi married her husband in 2004 according to Hindu rites, and both were practicing Hindus. Revathi said her grandmother raised her as a Hindu and that she would continue to practice the religion. The court gave Revathi's Muslim parents custody of their two-year-old daughter. The Malacca State Shari'a Court ordered Revathi sent to the Islamic Rehabilitation Centre for 180 days' rehabilitation to help her "return to Islam." She was released in July into the custody of her parents. The authorities ruled she could not convert out of Islam and that her marriage was void. The court also ordered her to attend weekly religious classes and banned her from seeing her husband. At year's end Revathi's parents retained custody of the child.

The Federal Court made no decision in the appeal of Kaliammal Sinnasamy, a non-Muslim woman, involving the disposition of the remains of her spouse. He allegedly converted from Hinduism to Islam before his death. Islamic religious authorities buried the man with Muslim rites.

The law strictly prohibits non-Muslims from proselytizing Muslims; proselytizing of non-Muslims faced no legal obstacles. In July the opposition-controlled state of Kelantan announced it had increased the maximum penalties for proselytizing Muslims from two years' imprisonment and a fine of approximately \$1,430 (5,000 ringgit) to five years' imprisonment, a fine of approximately \$2,860 (10,000 ringgit), and six lashes with the cane.

According to the Malaysian Consultative Council of Buddhists, Christians, Hindus, Sikhs, and Taoists the government continued to restrict visas for foreign clergy under the age of 40 to inhibit "militant clergy" from entering the country. While representatives of non-Muslim groups did not sit on the immigration committee that approved visa requests for clergy, the committee asked the consultative council for its recommendations.

Religious education is compulsory for Muslim children and follows a government-approved curriculum. Muslim civil servants are required to attend Islamic religious classes taught by government-approved teachers.

The government discouraged but did not ban distribution in peninsular Malaysia of Malay-language translations of the Bible, Christian tapes, and other printed materials, but it restricted distribution and required "Not for Muslims," be stamped on all Malay-language materials. The distribution of Malay-language Christian materials faced few restrictions in the eastern states of Sabah and Sarawak. In June the government banned 51 book titles and publications on Islam, alleged to undermine the faith of Muslims. The books included *The Qur'an* by M.A.S. Abdel Haleem, *Feminism and Islamic Fundamentalism: The Limits of Postmodern Analysis* by Haideh Moghissi, *The Life and Times of Muhammad* by John Glubb, and *War, Terror & Peace in the Qur'an and in Islam: Insights For Military and Government Leaders*, by T.P. Schwartz.

The government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of particular religions, especially Islam. The government also restricted the content of sermons at mosques. In recent years both the government and the opposition party PAS have attempted to use mosques in the states they control to deliver politically oriented messages. Several states attempted to ban opponent-affiliated imams from speaking at mosques.

In family and religious matters, Muslims are subject to Shari'a. According to some women's rights advocates, women were subject to discriminatory interpretations of Shari'a and inconsistent application of the law from state to state. In 2005 parliament approved amendments to the Islamic Family Law Act intended to harmonize Shari'a family law throughout the country. However, a review of amendments continued at year's end.

State authorities in Kelantan continued to ban traditional Malay dance theaters, prohibited advertisements depicting women not fully covered by clothing, enforced wearing of headscarves by Muslim women, and imposed fines for violators. In December 2006 the Kelantan state government enacted a by-law against "indecent dressing" by Muslim women working in retail outlets and restaurants. The dress code requires headscarves and allows only faces and hands to be exposed. The law also stipulates that non-Muslim women should avoid dressing "sexily or indecently." Women who violate the dress code face possible fines up to \$139 (500 ringgit). Women's rights leaders and the minister of women, family, and community development criticized the new law as overly restrictive.

The government provided no statistics regarding raids by federal religious police of nightclubs and similar places during the year.

Societal Abuses and Discrimination

No reliable estimate of the country's Jewish population was available, and there were no locally based Jewish communities or synagogues. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

a. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice, although there were some restrictions. The eastern states of Sabah and Sarawak controlled immigration and required citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. The government provided limited cooperation with the Office of the UN High Commissioner for Refugees (UNHCR) and generally did not impede other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The government regulated the internal movement of provisionally released ISA detainees. The government also used the Restricted Residence Act to limit movements of those suspected of some criminal activities.

Citizens must apply for government permission to travel to Israel.

The constitution provides that no citizen may be banished or excluded from the country. However, according to the terms of a 1989 peace agreement, Chin Peng, the former leader of the communist insurgency in the country, continued to live in exile in Thailand, and the government denied him permission to return. The government also demanded he provide evidence that he remained a citizen.

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. The government did not grant refugee status or asylum. In practice the government did not provide protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. The government generally did not deport individuals recognized as persons of concern by the UNHCR.

The government continued to deport some refugees and asylum seekers but allowed certain refugees and persons of concern to remain, pending resettlement to other countries. The government generally did not distinguish between asylum seekers and illegal immigrants and detained them in the same camps. Detention facilities were overcrowded and lacked adequate medical facilities. Local human rights NGOs alleged prison officials sometimes abused detainees and provided inadequate food.

A group of Thai citizens, who illegally entered the country in August 2005, reportedly to escape violence in southern Thailand, remained in an illegal-migrant detention center in Terengganu. Due to several births, their number has grown from 131 to 134. The government allowed Thai authorities full access to this group to try to persuade them to return to Thailand. In August, according to a Malaysian national news agency report, the government turned one of the original 131 over to the Thai authorities for alleged involvement in the southern Thailand violence.

As of the end of August, the UNHCR listed 7,351 persons as asylum seekers and 30,132 as refugees, approximately 50 percent of whom were Burmese citizens.

By the end of August, the UNHCR submitted 8,098 refugees to third countries for resettlement consideration. Third countries accepted and resettled 3,183 refugees. The cases of the remaining 4,915 refugees remained pending and at risk for detention and deportation by immigration officials.

The UNHCR reported 813 asylum seekers and refugees, including 135 children, remained in immigration detention centers and prisons after immigration officials or RELA members arrested them. By the end of July, the UNHCR had facilitated the release of 1,196 individuals from police lockups and immigration detention camps.

In August the government, on humanitarian grounds, announced a one-year visa for refugees from Aceh.

In 2006 RELA detained 25,045 illegal immigrants, refugees, asylum seekers, and persons of concern. As of November RELA members arrested 30,332 illegal immigrants, refugees, asylum seekers, and persons of concern and carried out approximately 40 raids per night (see section 1.d.).

The immigration law provides for six months in prison and up to six strokes of the cane for immigration violations. In practice delays in processing travel documents led to the detention of many illegal immigrants in camps for more than a year. As of the end of July, authorities caned 30 refugees or persons of concern compared with 10 for all of last year.

In November the Bar Council opined that the extended detention of eight Burmese refugees was unlawful; prison officials extended their sentences in order to carry out caning imposed as part of their punishment. A Bar Council official noted that the prisons cannot hold someone once his sentence had been completed irrespective of whether a caning has been executed. The council urged the government to stop prosecuting refugees and asylum seekers as illegal immigrants.

In 2005 the Prisons Department took over management of immigrant detention centers from the Immigration Department. Nonetheless, NGOs reported that conditions in the centers had not materially improved, largely due to inadequate funding for food, medical care, and infrastructure maintenance. In November the minister of home affairs transferred responsibility over immigration detention centers from the Prisons Department to the Immigration Department. RELA members were expected to staff the immigration centers for up to two years while the Immigration Department trains a permanent staff.

Stateless Persons

Citizenship is derived from one's parents (*jus sanguinis*). NGO estimates of the number of stateless persons ranged from several thousand to as many as 30,000. A foreign government estimated that approximately 10 to 20 percent of the 60,000 illegal immigrants and persons of concern living in Sabah were stateless children born in Sabah. Government officials denied stateless persons access to education, health care, and the right to own property.

Some persons were stateless because the government refused to register their birth due to inadequate proof of their parents' marriage. Interfaith marriages not recognized by the government sometimes resulted in undocumented, *de facto* stateless children.

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 formally exercised this right in practice through periodic elections based on universal suffrage; however, while votes generally were recorded accurately, there were irregularities that affected the fairness of elections and this right was abridged in practice.

Elections and Political Participation

Opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since independence in 1957) because of significant restrictions on campaigning, freedom of assembly and association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in past state and national elections. In the most recent national elections, held in 2004, opposition parties captured 19 of 219 parliamentary seats and 52 of 505 state assembly seats.

The lack of equal access to the media was one of the most serious problems encountered by the opposition in the 2004 national elections and in subsequent by-elections. Opposition leaders also claimed that the election commission was under government control and lacked the independence needed to carry out its duties impartially. There were numerous opposition complaints of irregularities by election officials during the 2004 campaign; however, most observers concluded that they did not substantially alter the results. NGOs and opposition party leaders lodged allegations of illegally registered "phantom" voters, reportedly brought in from other districts to vote in tightly contested districts; inflated voter rolls; nonregistered voters using fictitious names or the names of dead voters still listed on the voter rolls; and noncitizens registered to vote.

As of September there were approximately 21 million eligible voters in the country and an estimated 16 million registered to vote.

The constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters; however, in practice the numbers varied significantly.

The Malay-based UMNO party dominated the ruling National Front coalition. Since 1969 the National Front coalition has maintained at least a two-thirds majority in parliament, which enabled the government to amend the constitution at will.

Over the years power increasingly has been concentrated in the prime minister, and parliament's function as a deliberative body has deteriorated. Parliament rarely amended or rejected government proposed legislation and did not give legislation proposed by the opposition serious consideration. Parliamentary procedures allow the speaker of parliament to suspend members, establish restrictions on tabling questions, edit written copies of members' speeches before delivery, and severely restrict members' opportunities to question and debate government policies. Nonetheless, government officials often faced sharp questioning in parliament, and the press reported in greater detail than in the past.

Under the Local Government Act, elections of public officials were confined to state assemblies and the federal parliament. Some politicians and NGO activists advocated the reintroduction of local government elections, which the government abolished after the 1969 race riots. Some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the government.

Women faced no legal limits on participation in government and politics. At the end of September, three of 33 cabinet ministers were women. Women held 21 of 219 seats in the lower house and 17 of the 64 senate seats.

In practice the political dominance of the Malay majority meant that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 10 of the 33 ministerial posts and 21 of 35 deputy minister positions.

Government Corruption and Transparency

The law provides criminal penalties for official corruption. Government commitment to the effective implementation of the law remained unclear, and the media reported numerous cases of alleged official corruption. There was a broadly held perception of widespread corruption and cronyism within the governing coalition and in government institutions. The World Bank's worldwide governance indicators reflect that corruption was a problem. As of 2006 the ACA employed approximately 1,800 staff members nationwide. According to the ACA director general, the agency initiated the arrest of 492 individuals during the year. In August the government announced that civil servants who refuse or fail to declare their assets would face disciplinary actions and would be ineligible for promotion.

A deputy prime minister-headed panel investigating allegations of log smuggling by a member of parliament (MP) had not completed its investigation by year's end.

There is no law designed to facilitate citizens' requests for government statistics or other information collected and compiled by the government. Individual MPs were allowed to request and obtain such information on an ad hoc basis, some of which was then made available to the public.

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.

SUHAKAM was generally considered a credible monitor of the human rights situation and a check on police activities. SUHAKAM is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject of a court case.

SUHAKAM commissioners traveled throughout the country to educate community leaders, including police officials, on the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. They repeatedly noted that a major unresolved challenge was the slow government response to their reports on major topics that touched on fundamental liberties.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal protection under the law and prohibits discrimination against citizens based on sex, religion, race, descent, or place of birth. However, the constitution also provides for the "special position" of ethnic Malays and the indigenous groups of the eastern states of Sabah and Sarawak (collectively, bumiputras), and discrimination based on this provision persisted. Government policies and legislation gave preferences to bumiputras in housing, home ownership, awarding of government contracts and jobs, educational scholarships, and other areas. Nonbumiputras regularly complained about these preferences, arguing that government subsidies for disadvantaged persons should be dispensed without regard to race.

Women

The penal code states that rape is punishable by a prison term of up to 30 years, caning, and a fine. According to the police, 3,177 rapes were reported during the year, compared with 2,435 in 2006. Spousal rape is not a crime, although a husband may be charged for causing hurt to his wife while attempting to force sexual relations with her.

The courts may decide the minimum jail term for a man convicted of statutory rape of a girl age 15 years or less. Prior to 2006 the penal code had stipulated minimum jail sentences for such behavior. In addition the law prohibits a person in authority from using his position to intimidate a subordinate into having sexual relations.

Many government hospitals had crisis centers where victims of rape and domestic abuse could make reports without going to a police station. NGOs and political parties also cooperated to provide counseling for rape victims, but cultural attitudes and a perceived lack of sympathy from the largely male police force resulted in many victims not reporting rapes. According to the Ministry of Women, Family, and Community Development (MWFCDD) and a leading women's NGO, only 10 percent of rape cases were reported to police. Women's groups noted that while some rapists received heavy punishments, including caning, other rapists received inadequate punishments.

Some Shari'a experts urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. Provisions in state Shari'a laws, however, generally prohibit wives from disobeying the "lawful orders" of their husbands and presented an obstacle to women pursuing claims against their husbands in Shari'a courts. Muslim women were able to file complaints in civil courts.

Violence against women remained a problem. During the year police received 3,264 domestic violence reports. Reports of rape and spousal abuse drew considerable government, NGO, and press attention. Under the Domestic Violence Act, anyone who willfully contravenes a protection order by using violence against a protected person may be punished by imprisonment of up to one year and a maximum fine of \$556 (2,000 ringgit). In extreme cases, involving "grievous hurt" inflicted using a deadly weapon, the maximum imprisonment increases to 20 years. Women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view the act fails to protect women in immediate danger because it requires separate reports of abuse be filed with both the Social Welfare Department and the police, causing delay in the issuance of a restraining order. Cases also require visible evidence of physical injury, despite its interpretation to include sexual and psychological abuse.

Although the government, NGOs, and political parties maintained shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. There was a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse. Police responses and sensitivity to complaints of domestic violence continued to improve, but women's rights activists claimed that police needed additional training in handling domestic abuse and rape cases.

Prostitution is not a criminal offense, although Muslims engaged in prostitution could face civil penalties under Shari'a for engaging in sexual relations out of wedlock. Foreign prostitutes were routinely arrested as illegal immigrants or for violating the terms of their nonimmigrant visas. Financially benefiting from the prostitution activities of others, is illegal and was prosecuted. The police conducted 9,878 (gambling/prostitution) raids from January to August, compared with 12,901 for all of 2006. The police arrested and placed in preventive detention 44 panderers from January to August, detaining 30 under the Restricted Residence Law and the remaining 14 under the Emergency Ordinance. There were no reports that the police charged anyone under the penal code. In 2006 the police arrested and charged 35 panderers under the penal code. The police arrested 5,250 foreign prostitutes from January to August, compared with 5,968 in all of 2006. The police arrested 428 local prostitutes from January to August, compared with 545 in all of 2006. NGOs accused the police of profiling female Chinese nationals as potential prostitutes, following several highly publicized arrests. Police and NGO representatives estimated 150,000 women were involved in prostitution.

A government voluntary code of conduct provides a detailed definition of sexual harassment, which is meant to raise public awareness of the problem, but women's groups advocated passage of a separate law on sexual harassment. The Malaysian Employers Federation opposed any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations.

Women's rights advocates asserted that women faced discriminatory treatment in Shari'a courts due to prejudicial interpretations of Islamic family law.

The law allows polygyny and Muslim men practiced polygyny in limited numbers. Islamic inheritance law generally favors male offspring and relatives. There was a small but steadily increasing number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent.

Non-Muslim women are subject to civil law. The Guardianship of Women and Infants Act gives mothers equal parental rights. Four states extended the provisions of the act to Muslim mothers, and women's groups urged the other states to do the same.

The government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. According to the MWFC, women made up approximately 7.6 percent of total board members of publicly traded companies and 6.9 percent of state assembly members. At year's end women accounted for 46.1 percent of the labor force, including a significant portion of the country's dentists (56.2 percent), lawyers (45.7 percent), accountants (44 percent), and medical doctors (37.2 percent).

Children

The government demonstrated a commitment to children's rights and welfare; however, the law allows use of a "light cane" to administer a maximum of 10 strokes to male children between the ages 10 and 18.

Parents must register a child within 14 days of birth. The authorities require citizens to provide their marriage certificate and both parents' MyKad. Non-citizens must provide passport or travel documents. Parents applying for late registration must prove the child was born in the country. The authorities do not enter the father's information for a child born out of wedlock unless there is a joint application by the mother and the person claiming to be the father. The authorities do not register children born to illegal immigrants or asylum seekers. Asylum seekers who register a birth risk arrest as illegal immigrants. The UNHCR registers children born to refugees. Marriages between Muslims and non-Muslims are void. Couples in such marriages have difficulty registering births that recognize the father due to the invalidity of the marriage. Children without birth certificates are stateless and denied entry into both public and private schools. Stateless children (like noncitizens) are required to pay higher medical fees, which caused hardship in many cases.

The government allocated approximately 25 percent of the national budget to education and provided free education for children through age 17. Although primary education is compulsory, there is no enforcement mechanism governing school attendance. There was no apparent difference in the treatment of girls and boys at the primary and secondary levels.

A variety of programs provided low-cost health care for most children without distinction based on gender.

The government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. The law provides for six to 20 years' imprisonment and caning for individuals convicted of incest. The police stated that 332 cases of incest were reported in 2006, up from 295 cases in 2005. In past years the majority of incest cases involved children less than 15 years of age. The testimony of children is accepted only if there is corroborating evidence. This posed special problems for molestation cases in which the child victim was the only witness.

Statutory rape occurred and was prosecuted. According to the Women, Family and Community Development Ministry, most victims were below 15 years of age. However, Islamic law provisions that consider a Muslim girl an adult after her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with khalwat, even if she is under the age of 18 and her partner is an adult. Thus Shari'a courts sometimes punished the victims of statutory rape. There were no reports of Shari'a courts charging rape victims with khalwat during the year. Shari'a courts sometimes were more lenient with males charged with khalwat, although in many cases Muslim men were charged and punished for statutory rape under civil law.

Child prostitution existed, but child prostitutes often were treated as delinquents or illegal immigrants rather than victims.

Sabah had a problem of street children. Estimates ranged from a few hundred to 15,000, born in the country to illegal immigrant parents some of whom were deported. These children lacked citizenship and access to government-provided support and often resorted to menial labor, criminal activities, and prostitution to survive.

Trafficking in Persons

On July 26, the Antitrafficking in Persons Act was enacted. It prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, or within the country. The government can use other laws, such as the Child Act, the Immigration Act, and the Restricted Residence Act, to arrest and detain traffickers.

Trafficking in persons was a serious problem. The country was a destination, and to a lesser extent, a source and transit point for men and women trafficked for the purposes of sexual exploitation and forced labor. Foreign trafficking victims, mostly women and girls from China, Indonesia, Cambodia, Thailand, the Philippines, and Vietnam, were trafficked to the country for commercial sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses. Some Malaysian women, primarily of Chinese ethnicity, were trafficked abroad for sexual exploitation. Some economic migrants, mostly from Bangladesh and Indonesia, working as domestic servants or laborers in the construction and agricultural sectors, faced exploitative conditions that met the definition of involuntary servitude.

According to police, the Bar Council, and SUHAKAM, many foreigners found to be involved in prostitution were possible trafficking victims. Foreign embassies, NGOs, and government authorities reported that police and NGOs rescued and repatriated at least 300 to 400 trafficking victims in each of the past two years. The rescues did not lead to a significant number of arrests and prosecutions of traffickers.

A small number of Malaysian women and girls were trafficked for sexual purposes, mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to the United Kingdom, Japan, Australia, and Canada. According to police and ethnic Chinese community leaders, female citizens who were victims of trafficking were usually ethnic Chinese, although ethnic Malay and Indian women also were exploited as prostitutes domestically. The Ministry of Foreign Affairs and NGOs estimated that fewer than 100 Malaysian women were trafficked abroad during 2006 and that the number had declined in recent years.

Foreign trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, physical abuse, and forced drug use. According to news reports, these women said that they were lured to the country by promises of legitimate employment but were forced into prostitution upon their arrival in the country.

Police and NGOs believed that criminal syndicates were behind most of the trafficking. Employment agencies were also believed to be heavily involved in trafficking migrant workers.

Under the Antitrafficking Act, any person convicted of trafficking an adult is subject to a maximum imprisonment term of 15 years and a possible fine. A person convicted of trafficking a child receives a minimum sentence of three years and maximum of 20. Any person profiting from the exploitation of a trafficked person may serve a maximum of 15 years and pay a minimum fine of approximately \$14,285 (50,000 ringgit) and maximum of approximately \$142,850 (500,000 ringgit).

There were allegations of corruption among law enforcement personnel, since some trafficking victims passed through two or more ports of entry without travel documents.

The government assisted some underage persons exploited as prostitutes and rescued some trafficked women and girls. During the year police continued a referral system to place foreign trafficking victims in shelters operated by NGOs and certain foreign embassies. However, shelter space in private shelters remained inadequate to hold all identified victims, and those whom shelters could not accept were transferred to immigration detention facilities for deportation processing. Police participated in NGO and foreign-funded antitrafficking seminars.

Persons with Disabilities

Neither the constitution nor other laws explicitly prohibit discrimination based on physical or mental disabilities, but the government promoted public acceptance and integration of persons with disabilities.

The government did not discriminate against persons with disabilities in employment, education, or in the provision of other state services. A public sector regulation reserves 1 percent of all public sector jobs for persons with disabilities. The government did not mandate accessibility to transportation for persons with disabilities, and few older public facilities were adapted for such persons. New government buildings were generally outfitted with a full range of facilities for persons with disabilities.

A code of practice serves as a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs. SUHAKAM recommended legislation to address discriminatory practices and barriers facing persons with disabilities, and it organized dialogues among persons with disabilities, government departments, and NGOs to promote awareness of the rights of persons with disabilities.

Special education schools existed but were not sufficient to meet the needs of the population with disabilities. The government undertook initiatives to promote public acceptance of persons with disabilities, make public facilities more accessible to such persons, and increase budgetary allotments for programs aimed at aiding them. Recognizing that public transportation was not "disabled-friendly," the government maintained its 50 percent reduction of the excise duty on locally made cars and motorcycles adapted for persons with disabilities. The Ministry of Human Resources was responsible for safeguarding the rights of the disabled.

National/Racial/Ethnic Minorities

The law and government policy provide for extensive preferential programs designed to boost the economic position of bumiputras. Such programs limited opportunities for nonbumiputras in higher education, government employment, business permits and licenses, and ownership of land. According to the government, these programs were necessary to ensure ethnic harmony and political stability. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups.

In August 2006 the minister of higher education stated that the nation's 17 public universities employed few nonbumiputra deans. At the Universiti Malaya, 19 of 20 deans were bumiputras; in many other universities, deans were exclusively bumiputras. They also accounted for more than 85 percent of the country's almost 1.15 million civil servants at the end of 2006. The percentage has steadily increased.

In November HINDRAF organized a march to increase awareness of the perceived marginalization of ethnic Indians, who make up 8 percent of the population. Police used tear gas and water cannons to disperse the demonstrators. In December five HINDRAF leaders were detained under the ISA (see section 2.b.).

Indigenous People

Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states) generally enjoyed the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region, known as the Orang Asli, vest considerable authority in the non-Orang Asli minister for rural development to protect, control, and otherwise decide issues concerning this group. As a result indigenous people in peninsular Malaysia had very little ability to participate in decisions that affected them.

The Orang Asli, who numbered approximately 150,000, constituted the poorest group in the country. Government statistics, categorized approximately 77 percent of Orang Asli households as living below the poverty level. A government-sponsored national advisory council monitored the development of Orang Asli, but only five of the council's 17 members were Orang Asli. In addition, only one Orang Asli held a management position in the government's Department of Orang Asli Affairs. Under its ninth economic plan covering the years 2006-10, the government allocated slightly more than \$100 million (361.8 million ringgit) for development projects for the Orang Asli. These focused on improving health, preschool education, infrastructure, and economic activities. The plan included an additional \$28 million (100 million ringgit) for development of lands inhabited by the Orang Asli. In July the Ministry of Education and the UN Children's Fund introduced a remedial education program especially tailored for the Orang Asli to improve reading and writing skills.

In March 2006 the minister of rural and regional development stated that the dropout rate among Orang Asli children was more than 50 percent in secondary schools. Village chiefs reported strangers lured teenagers from various Orang Asli tribes away from their villages with promised jobs as domestic workers in cities. The Orang Asli Affairs Department suspected the teenagers were kidnapped. The department responded by sending letters to the chiefs of some 800 villages to be wary of strangers and consult the authorities if their young women planned to take up job offers outside the village.

Under the Aboriginal People's Act, Orang Asli were permitted to live on designated land as tenants-at-will, but they did not possess land rights. Observers reported that over the years, the total area of land reserved for Orang Asli had decreased, and some land previously set aside as Orang Asli reserve was rezoned for development.

The uncertainty surrounding Orang Asli land ownership made them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli and other indigenous groups in the Borneo states. Indigenous people in Sabah and Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they considered theirs under native customary rights. After four SUHAKAM commissioners visited impoverished natives of the large Penan tribe in Sarawak in September 2006, they stated that living conditions of the Penan people had not improved during the past five years. The commissioners also found that the government had not registered as citizens the vast majority of the Penan people visited. In July the Sarawak Penan Association urged the state government to delineate the Penan's native customary land boundaries, revoke timber licenses that overlapped their land, stop issuing provisional leases for plantations, and halt all logging and plantation development activities on their land. In August SUHAKAM released a report on the Penan in Ulu Belaga, Sarawak. The report stated the tribe no longer had the legal avenue to claim their rights over ancestral land due to amendments to the Sarawak Land Code that do not recognize ancestral land rights. The report indicated that the Penan tribe was among the poorest groups in the country and lived below the poverty line. SUHAKAM urged the government to ensure the availability of necessities for the Penan through poverty eradication and income generation programs. As of September the state government had not responded to either group's recommendations.

A case regarding ownership of the land used for the construction of the Kuala Lumpur International Airport remained pending at year's end. In September 2005 the Court of Appeal upheld a high court ruling that the Temuan, an Orang Asli group in peninsular Malaysia, were the rightful owners of the land and ordered the Selangor state government to pay compensation; however, the government appealed the decision. In November 2006 the Federal Court agreed to hear the appeal initiated by the state of Selangor and the federal government.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers, to which indigenous persons may have no access. In past years this deprived some indigenous persons of their traditional lands with little or no legal recourse. In March the Semalai, another Orang Asli group in peninsular Malaysia, filed a petition at the high court to review a Pahang State government-ordered eviction from an area the Semalai claim as their traditional land. The land, approved as an aboriginal reserve in 1974, was not officially registered. The state government decided to divide the land among neighboring Malay villagers through a government approved land scheme. As of September the suit was still pending.

Other Societal Abuses and Discrimination

Although there are no laws that prohibit homosexuality, laws against sodomy and "carnal intercourse against the order of nature" exist and were enforced. Religious and cultural taboos against homosexuality were widespread. The government's response to HIV/AIDS was generally nondiscriminatory, although stigmatization of AIDS sufferers was common.

Section 6 Worker Rights

a. The Right of Association

By law most workers have the right to engage in trade union activity, but trade unions represented only 9.5 percent of the labor force. Those restricted by law from joining a union include public sector workers categorized as "confidential, managerial, and executive," as well as defense and police officials. In theory foreign workers can join a trade union; however, the Immigration Department barred foreign workers from holding trade union offices, and most foreign workers' contracts banned them from joining a trade union.

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or participation in lawful trade union activities. However, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries." The director general of trade unions may refuse to register a trade union and in some circumstances may withdraw the registration of an existing trade union based on provisions outlined in the act. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association; there were no reports of any such actions during the year. Trade unions from different industries may join in national congresses, but such congresses must register separately as societies under the Societies Act.

Malaysian Trade Union Congress (MTUC) officials continued to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act requires that an employer respond to a union's request for recognition within 21 days of application, it was not uncommon for such applications to be refused and unions to go unrecognized for one to four years. In August parliament amended the trade union act making it more difficult for workers to form unions. Under the amendments if an employer does not respond to the union application within the 21 days the union must submit a written appeal to the director general of trade unions within 14 days. If the union fails to submit the appeal within the stipulated period, the union automatically is not recognized. The amendments also denied the right of unions and individuals to hold strikes protesting the nonrecognition of their union.

Government policy inhibited the formation of national unions in the electronics sector, the country's largest industry, because it has "pioneer status," which affords certain investment incentives. The government stated that establishment of national unions in the electronics sector would impede foreign direct investment and negatively affect the country's international competitiveness in the sector; government leaders stated that enterprise-level unions were more appropriate for the electronics industry. According to MTUC officials, 150,000 electronics workers were unable to organize, and only eight in-house unions existed in the electronics industry.

Unions maintained independence from both the government and political parties, but individual union members may belong to political parties. Although by law union officers may not hold principal offices in political parties, individual trade union leaders have served in parliament. Trade unions were free to associate with national labor congresses, which exercised many of the responsibilities of national labor unions, although they cannot bargain on behalf of local unions.

Trade unions were permitted to affiliate with international trade union organizations, such as global union federations and the International Trade Union Confederation, subject to the approval of the director general of trade unions.

b. The Right to Organize and Bargain Collectively

Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized.

There are two national labor organizations. The MTUC is a society of trade unions in both the private and government sectors and is registered under the Societies Act. As such, the MTUC does not have collective bargaining or industrial action rights but provides technical support for affiliated members. The other national organization is the Congress of Unions of Employees in the Public and Civil Service (CUEPACS), a federation of public employee unions registered under the Trade Unions Act.

CUEPACS is an umbrella organization that included 127 distinct civil servant unions with approximately 300,000 members out of a total of one million civil servants, represented by an estimated 160 unions. Teacher unions accounted for 140,000 of CUEPACS' 300,000 members. CUEPACS holds talks with the government through three National Joint Councils (NJs) that represent three types of workers: managerial and professional, scientific and technological, and general (all other types of workers, such as clerical and support staff). The government established the NJC system to have NJCs serve as aggregating, intermediary negotiating bodies between the government and the various unions served by CUEPACS. NJC members are elected from constituent unions. While an individual civil service union may approach the government directly on narrow issues that affect only that particular union or its members, broader issues that affect the entire civil service flow up to CUEPACS and then to one of the NJCs, depending on the type of civil servants involved.

Government regulations limited CUEPACS' negotiating power and virtually eliminated its right to organize strikes. CUEPACS has sought a minimum wage for civil servants; however, by year's end the government had announced no plans to institute a minimum wage for public or private sector workers. In May the government approved a pay raise of as much as 35 percent for civil servants, the first such increase in 15 years.

The government placed limits on collective bargaining agreements in companies designated as having pioneer status. The MTUC continued to object to legal restrictions on collective bargaining in pioneer industries. On June 3 and August 8, MTUC and its 200 affiliated unions organized a nationwide protest and demanded a national minimum wage of \$250 (900 ringgit) per month and a cost of living allowance of \$85 (300 ringgit) per month, equivalent to the amount paid to public sector workers. By the end of September, the government had not responded to MTUC demands.

Charges of discrimination against employees engaged in organizing union activities may be filed with the Ministry of Human Resources or the industrial court. Critics alleged that the industrial court was slow to adjudicate worker complaints when conciliation efforts by the Ministry of Human Resources failed.

The government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with International Labor Organization (ILO) standards.

Although private sector strikes are legal, the right to strike is severely restricted. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions. MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to MTUC officials, there were eight lunchtime pickets or one-day work slowdowns but no strikes during the year. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action may be taken. The ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the minister has the power to refer the dispute to the industrial court. Strikes or lockouts are prohibited while the dispute is before the industrial court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. However, some trade unions questioned the effectiveness of the provisions. In August parliament amended the Industrial Relations Act, limiting worker compensation to a maximum of two years from the time the employee is laid off.

Companies in export processing zones (EPZs) must observe labor standards identical to those in the rest of the country. Although the electronics sector's pioneer status inhibits organizing, many companies had "in house unions"; however, these were seen as controlled by management and were not allowed to affiliate with national union

umbrella bodies.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Some of the estimated 320,000 foreign women employed as household workers were subjected to physical abuse and forced to work under harsh conditions, and some child household employees worked in conditions amounting to forced labor. Some domestic workers were not paid or were paid below the agreed salary. Some of the abused women reported their employers forced them to sleep on kitchen floors and fed them only the scraps from a meal. Two Indonesian domestic workers escaped abusive employers by climbing down the side of high-rise residences with homemade ropes. Although Malaysia and Indonesia concluded a Memorandum of Understanding (MOU) in 2006 that, among other things, called for domestic workers to be paid directly, receive compensation for personal injury, and be given time off in lieu of overtime, it remained a common practice for employers to deposit wages with recruiting agencies as repayment for debts. Under terms of the MOU, domestic workers have to surrender their passports to their employers to ensure they will not run away. Child labor occurred in certain areas of the country.

In 2004 a 19-year-old Indonesian domestic worker, Nirmala Bonat, allegedly was burned repeatedly with an iron and scalded with boiling water by her employer's wife, Yim Pek Ha. The abuse produced severe disfigurement. The government charged Yim with the crime, and the court released her on bail. The trial, which began in 2004, proceeded slowly and continued as of year's end.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children younger than age 14 but permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the government in a school or in training institutions, or work as an approved apprentice. In no case may a child work more than six hours per day, more than six days per week, or at night.

Most child laborers worked informally in the agricultural sector, helping their parents in the field; however, only adult members of the family received a wage. Child labor in urban areas was often found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers had largely replaced child labor and that child labor provisions were vigorously enforced.

e. Acceptable Conditions of Work

No national minimum wage provision was in effect, as the government preferred to allow market forces to determine wages. Prevailing market wages generally provided a decent standard of living for citizens, although not for all migrant workers. Wage councils, established by a 1947 act to provide a recommended minimum wage for sectors in which the market wage was deemed to be insufficient, had little impact on wages in any sector. According to MTUC officials, the wage councils had not met for more than 15 years, and their recommended wages have long been obsolete.

Plantation workers generally received production-related payments or daily wages. Under a 2003 agreement, plantation workers received a minimum wage of \$97 (350 ringgit) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to nearly \$194 (700 ringgit).

Under the Employment Act, working hours may not exceed eight hours per day or 48 hours per workweek of six days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources is responsible for enforcing the standards, but a shortage of inspectors precluded strict enforcement.

There were approximately two million legal migrant workers, who worked in the country mainly in manufacturing (35.9 percent), plantations and agriculture (24.7 percent), as domestic workers (15.8 percent), and in construction (14.1 percent). According to the Ministry of Human Resources, as of September 30, legal foreign workers primarily came from Indonesia (58 percent), Nepal (11 percent), Bangladesh (9 percent) and India (7 percent). Among legal foreign workers, Indonesian workers accounted for 90 percent of domestic helpers, 89 percent of plantation workers, and 81 percent of construction workers. The deputy prime minister stated that between 300,000 and 500,000 illegal migrants also worked in the country, but many observers and officials believed that the number of illegal migrant workers exceeded one million.

Legal and illegal foreign workers from Indonesia, Nepal, India, Burma, Vietnam, Bangladesh, the Philippines, and other countries constituted approximately 20 percent of the work force. Illegal foreign workers have no legal protection under the law and have no legal recourse in cases of abuse. Foreign migrant laborers, legal and illegal, often worked under difficult conditions, performed hazardous duties, had their pay withheld by employers, and had no meaningful access to legal counsel in cases of contract violations and abuse.

Foreign workers, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. However, the government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the law. According to the results of a survey conducted during the year by the Federation of Malaysian Manufacturers, the average monthly wage of foreign workers engaged in the manufacturing sector was \$161 (581 ringgit). In October the Ministry of Human Resources opened an investigation into a complaint by 700 Bangladeshi textile factory workers who alleged they were being paid only one-sixth of the amount their employers had promised. By year's end the government had enforced payment of back wages, and many of the workers had been repatriated back to Bangladesh.

The Workmen's Compensation Act covers both local and foreign workers but provides no protection for foreign household workers. According to the government, foreign household workers are protected under the Employment Act with regard to wages and contract termination. However, these workers are excluded from provisions of the act that would otherwise ensure that they received one rest day per week, an eight-hour workday, and a 48-hour workweek.

Employers sometimes failed to honor the terms of employment and abused their household workers. Only household workers ages 25 to 45 were allowed into the country, according to Immigration Department officials. They were not allowed to bring family members into the country while employed. The terms of the contract for Indonesian domestic workers, who made up approximately 92 percent of all foreign household workers, were often vague and open to abuse. The typical contract provided for a monthly salary of \$111 (400 ringgit) but did not specify the number of working hours per day. NGOs reported that many Indonesian household workers were required to work 14 to 18 hours a day, seven days a week. The contract for Filipino household workers included more comprehensive protections, but both groups suffered from a lack of education concerning their legal rights.

Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, confiscated their travel documents, and physically assaulted them. Workers have the right to take legal action against abusive employers. According to NGOs, the courts generally sided with employees and ruled that employers must pay all back salary and compensate plaintiffs for injuries, but long delays in court proceedings and rulings often precluded aggrieved foreign workers from seeking redress through the court system.

Mechanisms for monitoring workplace conditions were inadequate. Private, for-profit labor agencies, themselves often guilty of abuses, were often responsible for the resolution of abuse cases. Bilateral labor agreements with Indonesia do not provide adequate protections for household workers.

The Occupational Safety and Health Act covers all sectors of the economy except the maritime sector and the armed forces. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and cooperate with employers to create a safe, healthy workplace. Employers or employees that violate the act are subject to substantial fines or imprisonment for up to five years, although the MTUC complained that some

employers flouted the rules with impunity. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Marshall Islands

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

The Republic of the Marshall Islands is a constitutional republic with a population of approximately 56,000. In November voters elected the Parliament (Nitiijela) in generally free and fair multiparty elections. The Parliament was scheduled to elect a president in January 2008. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, prison conditions, government corruption, violence against women, child abuse, and lack of worker protections were areas of concern.

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 constitution prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison conditions did not meet international standards. Lighting, ventilation, and sanitation were inadequate, and there was no program to ensure regular access to outside activity. Security was poor.

Some male juveniles were held together with the general prison population. There were no specialized prison facilities for female prisoners, including juveniles; they generally were held under house arrest. Some female offenders were held in a separate police substation. Pretrial detainees were not separated from the general prison population.

There were no requests for prison visits by independent human rights observers. In the past the government allowed visits by the media and foreign diplomatic representatives without interference.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the police force, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the police force during the year.

Arrest and Detention

Under the constitution and law, a warrant issued by a court is required for an arrest if there is adequate time to obtain one. The courts have interpreted this provision to exempt situations such as a breach of the peace or an ongoing felony. There was a functioning system of bail, and detainees may request bond immediately upon arrest for minor offenses. Most serious offenses require the detainee to remain in jail until a hearing can be arranged, normally the morning after arrest. Detainees have the right to lawyers of their choice, and the government provides a lawyer if the defendant is indigent. Families had access to detainees.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

The High Court chief justice, with foreign assistance, continued work on implementation of a multiyear judicial training program and improvements in trial procedures.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants can choose either a bench trial or a four-member jury trial. In recent years defendants increasingly opted for jury trials, which had a higher rate of acquittals. Defendants enjoy a presumption of innocence and have the right to counsel. They may question witnesses, examine government-held evidence, and appeal convictions.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is no separate judiciary in civil matters, but there are administrative remedies for alleged wrongs as well as judicial remedies within the general court system.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice.

On October 12, supporters of an opposition party accused police forces of destroying political signs placed on private property. The following week the property owners filed a civil suit against a police officer accused of destroying the signs. The case was pending at year's end.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

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 were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts. There were few known individuals of Jewish background in the country.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law does not prohibit forced exile, but the government did not employ it.

Protection of Refugees

The laws do 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 country is not a signatory of these instruments. The government has not established a system for providing protection to refugees. In practice the country has almost no history of refugees or asylum seekers.

Stateless Persons

The country has one habitually resident de facto stateless person. The law does not provide a specific way for stateless persons to gain citizenship. The stateless resident has not been subjected to discriminatory treatment, access to services, or application of the law.

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 based on universal suffrage.

Elections and Political Participation

Executive power is centralized in the president and his cabinet. The legislature consists of the Nitijela and a council of chiefs (Iroij), the latter of which serves a largely consultative function dealing with custom and traditional practices. Citizens 18 years of age and older elect the 33-member Nitijela and mayors by secret ballot every four years.

The most recent elections for the Nitijela were held in November. There were many problems on election day in the major population center of Majuro, resulting in many voters waiting more than five hours to cast their ballots. In addition, some ballot boxes were recounted on the initiative of the chief electoral officer, which caused accusations of impropriety and assertions that the boxes should have been reopened only with a court order. Nevertheless, a team of independent election observers from the Pacific Islands Forum stated in their initial report that the election, while poorly managed, was conducted in a democratic manner, enabling voters to exercise their will freely.

Individuals and parties can freely declare their candidacy and stand for election. There are no restrictions on the formation of political parties, although many candidates prefer to run independently or loosely aligned with informal coalitions.

There are no legal impediments to women's participation in government and politics; however, traditional attitudes of male dominance, women's cultural responsibilities, traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. There was one woman in the 33-member Nitijela and four women in the 12-seat House of Iroij. There were no female judges, but the chief public defender was a woman. There were a number of women in prominent appointed government positions, including the secretary of education, secretary of health, acting secretary of foreign affairs, director of the Social Security Administration, and banking commissioner.

There were no members of minorities in the legislature.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflect that corruption was a serious problem. Budgetary problems persisted, but the government continued to make steady improvements, and auditors found fewer faults than in previous years.

Public officials are not subject to financial disclosure laws. The Attorney General's Office is responsible for investigating cases of alleged corruption, but few cases were prosecuted. No high-level elected official has ever been indicted for corruption. Voters tend to look to representatives for financial assistance, which pressured elected officials to use government authority to provide patronage to extended family members and supporters. This frequently led to allegations of nepotism in government hiring, especially for teachers, where studies found serious differences between teacher pay and qualification.

The law does not provide specifically for public access to government information. Although there is no specific statutory basis for denying such information, the government held that the burden for overcoming a denial of access rests with the public, and a court filing showing the reason the information is required was often necessary.

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

Human rights groups generally operated without government restriction, but few local groups existed. The government was not always responsive to the concerns of nongovernmental organizations (NGOs). The NGO Women United Together in the Marshall Islands (WUTMI) worked on women's, children's, and family issues and played a significant role in social issues.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of sex, race, color, language, national or social origin, place of birth, and family status or descent, and the government generally observed these provisions.

Women

Rape and assault are criminal offenses, and the government enforced the law effectively. The law establishes penalties of up to 25 years' imprisonment for first-degree sexual assault. Spousal abuse was common; most assaults occurred while the assailant was under the influence of alcohol. According to a 2003 WUTMI survey, more than 80 percent of women had been affected by spousal abuse. Violence against women outside the family also occurred, and women in urban centers risked assault if they went out alone after dark. Police generally responded to reports of rape and domestic assault, and the government's health office provided counseling in reported spousal and child abuse cases. However, most observers believed that few sexual offenses were prosecuted, since cultural constraints discouraged victims from reporting such crimes to the police. During the year one sexual assault case was brought before the High Court; at year's end it was pending.

The courts have promulgated rules designed to protect women filing rape charges during court testimony, and women's groups under the WUTMI umbrella continued to publicize women's issues and promote a greater awareness of women's rights.

Prostitution is illegal but continued to occur, particularly on the Majuro and Kwajalein atolls. Organized prostitution on Majuro, run primarily by foreigners, no longer catered only to the crews of foreign fishing vessels. There were no specific reports of violence against prostitutes, although the government assumed that it existed. The government prosecuted and expelled several persons who had overstayed their visas, could show no income or other evidence of support, and were alleged to be involved in prostitution.

Although not legally prohibited, no sex tourism was reported.

Sexual harassment is not prohibited by law, but it was not considered a widespread or serious problem.

The inheritance of property and traditional rank is matrilineal, with women occupying positions of importance in the traditional system, although control of property often was delegated to male family members on behalf of female landowners. Several educated women held prominent positions, particularly in government; however, while female workers were very prevalent in the private sector, many were in low-paying jobs with little prospect for advancement. The traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands.

Children

The government showed a commitment to children's welfare through its programs of free education and health care, but these were not adequate to meet the needs of the country's increasing population.

Education was universal and compulsory to age 18, and the national government did not charge school fees. It was estimated that up to 20 percent of children did not attend elementary school on a regular basis. In many cases this was because they lived too far away from a school or their families could not afford the annual registration fee (which varied by school but averaged approximately \$10) or incidental expenses. The lack of school lunch programs in most public schools was cited as another factor that contributed to absenteeism and poor performance. There were not enough high school facilities to accommodate all high-school-age children. Admission to high school continued to be by competitive examination. The government's enrollment report indicated that only two-thirds of those completing eighth grade attended high school. According to a 2005 World Bank report, approximately 50 percent of high school students--or one-third of those who started elementary school--eventually graduated.

The government provided subsidized essential medical services for all citizens, including children. Boys and girls had equal access to these services.

Child abuse and neglect are criminal offenses, but public awareness of children's rights remained low, and child abuse and neglect were considered increasingly common. Convictions for violation are punishable by up to 25 years in prison, depending on the degree of the offense. A law passed in September sets 18 years as the minimum age of consent for sexual activity. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. Nonetheless, there were few reports or prosecutions.

Trafficking in Persons

The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical or mental disabilities, and there are no restrictions on the right of such persons to vote or participate in civic affairs. There was no apparent discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services; however, there were no building codes and no legislation mandating access for such persons. The government provided minimal support for persons with mental disabilities.

Persons who could be medically defined as psychotic were imprisoned with the general prison population and visited by a doctor. When prison officials protested the disruptions caused by this practice, other arrangements, such as house arrest, were made.

There is no government agency specifically charged with protecting the rights of persons with disabilities. The attorney general is responsible for handling court cases involving complaints of discrimination against persons with disabilities, but no such cases were brought during the year.

National Minorities

There were reports that discrimination against Chinese nationals increased. The government was accused of selectively enforcing laws, especially immigration laws, against migrants from the People's Republic of China (PRC) while ignoring similar violations from other nationalities. There were allegations that immigration officers seized PRC passports from their holders at the airport. The owners of these passports were later detained by immigration enforcement officers and were unable to produce their documentation because their passports had been "lost" by officials at the airport. Police then arrested them for being in the country without documentation.

Other Societal Abuses and Discrimination

Some ethnic Chinese reported being threatened or attacked based on their race and receiving regular racial slurs. Other ethnic Chinese stated it was common for taxi drivers to refuse to stop for Chinese passengers. It was not uncommon to hear Marshallese complaining of "too many foreigners, especially Chinese."

There were no accounts of societal violence based on sexual orientation or HIV/AIDS infection. There are no enforced laws criminalizing homosexuality. In general homosexuals were accepted in society. There was some cultural stigma attached to HIV infection, but NGOs and the government conducted campaigns to provide HIV/AIDS education and encourage testing for the disease.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right of free association in general, and the government interpreted this right as allowing the existence of labor unions, although none have been formed. With few major employers, there were few opportunities for workers to unionize, and the country had no history or culture of organized labor.

b. The Right to Organize and Bargain Collectively

There is no legislation concerning collective bargaining or trade union organization. Wages in the cash economy were determined by market factors in accordance with the minimum wage and other laws.

The law does not provide for the right to strike, and the government has not addressed this issue.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits involuntary servitude, and there were no reports of its practice among citizens. Officials suspected that some forced or compulsory labor existed among the illegal alien population.

The law does not specifically prohibit forced and compulsory labor by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

There is no law or regulation setting a minimum age for employment of children. Children typically were not employed in the wage economy, but some assisted their families in fishing, agriculture, retailing, and other small-scale enterprises.

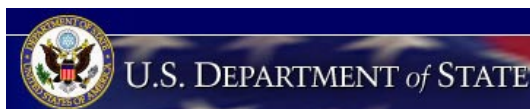
e. Acceptable Conditions of Work

The law establishes a minimum wage of two dollars per hour for both government and private sector employees. (The U.S. dollar is used as the national currency.) The national minimum wage did not provide a decent standard of living for a worker and family. However, in the subsistence economy, extended families were expected to help less fortunate members, and there often were several wage earners to support each family. The Ministry of Resources and Development adequately enforced the minimum wage regulations. Foreign employees and local trainees of private employers who had invested in or established a business in the country were exempt from minimum wage requirements. This exemption did not affect a significant segment of the workforce.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards, and the office periodically convenes board meetings that are open to the public. There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday most businesses were closed, and persons generally refrained from working. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions. The law protects foreign workers in the same manner as citizens.



[BACK TO TOP](#)



Micronesia, Federated States of

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor

March 11, 2008

The Federated States of Micronesia is a constitutional republic composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. Its population was approximately 107,000. The popularly elected unicameral legislature selects the president from among its four at-large senators (one from each state). There were no formal political parties. The most recent general elections for Congress, held on March 6, were considered generally free and fair despite technical problems and some allegations of fraud in Chuuk. On May 11, Congress chose Emanuel Mori as president. Individual states enjoyed significant autonomy, and traditional leaders retained considerable influence in Pohnpei and Yap. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. Reported human rights problems included judicial delays, government corruption, discrimination against women, domestic violence, and child neglect.

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 constitution prohibits such practices, and there were no reports that government officials employed torture; however, there were occasional reports of physical abuse by police.

Prison and Detention Center Conditions

Prison conditions generally met international standards; however, the underfunded corrections divisions of the Pohnpei and Chuuk State Public Safety Departments failed to provide nutritionally adequate meals to prisoners.

There were no designated juvenile detention facilities; however, juvenile crime was rare, and the states seldom incarcerated juvenile offenders. Pretrial detainees usually were held together with convicted prisoners.

The government permits prison visits by human rights observers, but the question of such visits did not arise 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

Each state has a Department of Public Safety composed of police, corrections, fire, and emergency response functions. There is a small national police force under the Department of Justice. Some municipalities also have small police forces. Many citizens preferred to rely on customary and traditional remedies to resolve criminal and civil matters.

Despite some improvement after Chuuk State's governor introduced measures in 2006 to reform the state's underqualified and politicized police force, the force remained politicized. In July the public safety director resigned his position in response to political pressure brought upon him by Chuuk's Senate president, who introduced a resolution of censure against the director in apparent reprisal for the arrests of the Senate president's brother and son for armed robbery and assault.

In Pohnpei the Department of Public Safety dismissed a police officer for carrying a handgun while off duty and illegally discharging it during an altercation outside a night club. A youth was grazed by a ricocheting bullet.

Arrest and Detention

Warrants are required for arrests, and detainees were promptly advised of the charges against them. Detainees must be brought before a judge for a hearing within 24 hours of arrest, and this requirement was generally observed in practice. Most arrested persons were released on bail, which usually was set at low levels except in cases involving flight risk. Detainees had prompt access to family members and lawyers. All defendants have the right to counsel; however, the public defender's office was underfunded, and not all defendants received adequate legal assistance in practice.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. The president, with the advice and consent of the legislature, appoints justices to fill vacancies on the three-member Supreme Court. Each state also has a supreme court, and some municipalities have

local courts. Some states have additional courts to deal with land disputes. The formal legal system coexists with traditional, mediation-based mechanisms for resolving disputes and dealing with offenders at the local level.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, although juveniles are allowed closed hearings. Judges conduct trials and render verdicts; there are no juries. Defendants enjoy a presumption of innocence and have the right to counsel, to question witnesses, to access government-held evidence, and to appeal convictions. There is a national public defender system with an office in each state. Despite these provisions, cultural resistance to litigation and incarceration as methods of maintaining public order allowed some persons to act with impunity. Serious cases of sexual and other assault and even murder did not go to trial, and suspects routinely were released indefinitely. Bail, even for major crimes, usually was set at low levels.

Delays in some judicial appointments and underfunding of the court system hampered the judiciary's ability to function efficiently. Shortages or unavailability of court personnel and services occasionally hampered the right to a speedy trial.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. The Supreme Court is responsible for hearing lawsuits seeking damages for, or cessation of, human rights violations. There were no nonjudicial administrative remedies available.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution contains an express right to privacy that prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of "expression" but not specifically of "speech" or of "the press"; however, the government generally respected each of these rights in practice.

Individuals could criticize the government publicly or privately without reprisal. The number of independent media outlets was very small but growing, with the addition of two religiously affiliated radio stations during the year, one in Pohnpei and one in Yap. There was a lack of consistently reliable access to broadcast media, although this improved greatly during the year. The government radio stations on Yap, Chuuk, and Pohnpei resumed operations, although Chuuk's station operated only four hours a day due to a limited power supply.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Cost and lack of infrastructure limited public Internet access on the outlying islands in each state. On the four principal islands, infrastructure was adequate, but cost still limited access. However, each state telecommunications office had Internet work stations available to the public 24 hours a day for reasonable hourly fees.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

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 were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts. There was no known Jewish community.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country. It does not address foreign travel, emigration, or repatriation, but in practice none of these rights was restricted.

The law does not explicitly prohibit forced exile; however, statutes that prescribe punishments for crimes do not provide for the imposition of exile, and the government did not employ 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. The government did not grant refugee status or asylum, and there were no requests for refugee status or asylum during the year. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. 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 and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

The March 6 general elections were generally free and fair; however, there were serious discrepancies between national and state voter registries in Chuuk State that disenfranchised perhaps hundreds of voters. The reasons for the discrepancies appeared primarily technical, although there were some allegations of fraud. Voting in Chuuk was marred by violence in the past, but none was reported during the March elections.

State governors, state legislators, and municipal governments are elected by direct popular vote. There are no restrictions on the formation of political groups; however, there were no significant efforts to form organized political parties, and none existed. Candidates generally sought political support from family and allied clan groupings and from religious groups.

Cultural factors in the male-dominated society limited women's representation in government and politics. Women were well represented in the middle and lower ranks of government at both the federal and state level, and women held the federal cabinet-level positions of attorney general and public defender.

There was one woman in the 23-seat Pohnpei State legislature and no women in the other state legislatures or in the 14-member national legislature.

The country is a multicultural federation, and both the legislature and the government included persons from various cultural backgrounds.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively; however, officials sometimes engaged in corrupt practices with impunity. Government corruption was a problem, particularly in Chuuk State. In May a former ambassador was charged with criminal conspiracy and violation of financial management regulations in connection with an alleged passport fraud scheme. At year's end he was free on bail, and the case was pending. A member of Congress indicted in 2004 for corruption retained his seat in the March elections. The judge initially appointed to hear the case recused himself, and at year's end the chief justice had not assigned a new judge to hear the case.

Public officials were not subject to financial disclosure laws. The Office of the Attorney General has primary responsibility for combating government corruption.

There is no national law providing for public access to government information. The speaker of Congress can declare any congressional documents confidential. State laws and practices varied. Legislative hearings and deliberations generally were open to the public. In Pohnpei the state legislature's proceedings were televised, and in Yap they were broadcast on FM radio. Information from other branches of government also was accessible; however, retrieval sometimes was complicated and delayed by the loss or mishandling of records and by the concern of lower level administrative personnel with verifying that release of the particular information requested was permissible. There were no reported cases of government denial of access to media, but there were only a small number of media outlets, and their reporting resources were limited.

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

Although there were no official restrictions, no local groups concerned themselves exclusively with human rights. There were groups that addressed problems concerning the rights of women and children, and the government cooperated with these groups.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law provide explicit protection against discrimination based on race, sex, or language, but societal discrimination against women remained a problem.

Women

Sexual assault, including rape, is a crime. Sexual assault involving a dangerous weapon or serious physical or psychological harm to the victim is punishable by up to nine years' imprisonment in Chuuk and 10 years' imprisonment in the other three states, or a fine of up to \$20,000 in Kosrae and \$10,000 in the other states. (The U.S. dollar is the national currency.) If neither of these factors is involved, the assault is punishable in all states by up to five years' imprisonment or a fine. However, few cases were reported or prosecuted. There is no specific law against spousal rape. According to police and women's groups, there were a number of reports of physical and sexual assaults against women, both citizens and foreigners, outside the family context. In this traditional society, unmarried women sometimes were considered to have invited such violence by living or traveling alone.

Reports of spousal abuse, often severe, continued during the year. Although assault is a crime, there were no specific laws against domestic abuse, and there were no governmental or private facilities to shelter and support women in abusive situations. Effective prosecution of offenses was rare. In many cases victims decided against initiating legal charges because of family pressure, fear of further assault, or belief that the police would not involve themselves actively in what is seen as a private family problem.

Within the traditional extended family unit, violence, abuse, and neglect directed against spouses or children were deemed offenses against the family, not just the individual victims, and were addressed by a complex system of familial sanctions. However, traditional methods of coping with family discord were breaking down with increasing urbanization, monetization of the economy, and greater emphasis on the nuclear family. No government agency, including the police, has succeeded in replacing the extended family system or in addressing the problem of family violence directly.

Prostitution is illegal and was not a major problem. The law does not prohibit sex tourism specifically, but it was not a problem. The law does not prohibit sexual harassment, which appeared to be pervasive although seldom reported.

Women have equal rights under the law, including the right to own property, and there were no institutional barriers to education or employment. Women received equal pay for equal work. There continued to be extensive societal discrimination against women, although women were active and increasingly successful in private business. There was an active national women's advisory council that lobbied the government. Additionally, several small NGOs were interested in women's issues, particularly those associated with family violence and abuse. The Women's Interest Section of the Department of Health, Education, and Social Affairs worked to protect and promote women's rights.

Children

The government was committed to children's welfare through its programs of health care and education; however, these programs were inadequate to meet the needs of the population, particularly in an environment in which the extended family was breaking down. Health officials and religious leaders ran peer-support and family-care groups to address factors that could contribute to youth suicides.

A compulsory education law requires all children to begin school at age six, but not all did so. A shortage of qualified teachers and lack of textbooks hampered progress. Education was free, and there was no difference between the education of boys and girls. Education levels differed among the states, but on average 75 percent of children finished eighth grade, 55 percent finished ninth grade, and 35 percent finished high school. There were not enough high schools to accommodate all students who wished to attend. Children were permitted to leave school when they reached the age of 14 or after completing the eighth grade, whichever came first.

The government administered an immunization program throughout the country and provided some vitamin supplements. Boys and girls had equal access to government-provided medical care.

There were some anecdotal reports of child abuse and neglect, but no reliable statistics were available.

Trafficking in Persons

National and state laws do not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities

The law prohibits discrimination in public service employment against persons with disabilities. Children with physical or mental disabilities, including learning disabilities, were provided with special education, including instruction at home if necessary; however, such classes were dependent on foreign funding. There were no reports of discrimination against persons with disabilities in employment, access to health care, or provision of other state services; however, persons with disabilities usually did not seek employment outside the home.

Neither laws nor regulations mandate accessibility to public buildings or services for persons with disabilities. Some private businesses provided special parking spaces and wheelchair ramps.

The national Health Services Department is responsible for protecting the rights of persons with disabilities.

Due to the lack of facilities for treating mentally ill persons, some persons with mental illnesses but no criminal background were housed in jails. The authorities provided separate rooms in jails for persons suffering from mental illness, and the state health services departments provided medications to the patients.

National/Racial/Ethnic Minorities

Each of the country's four states has a different language and culture. Traditionally the state of Yap had a caste-like social system with high-status villages, each of which had an affiliated low-status village. In the past those who came from low-status villages worked without pay for those with higher status. In exchange those with higher status offered care and protection to those subservient to them. The traditional hierarchical social system has been gradually breaking down, and capable people from low-status villages could rise to senior positions in society. Nonetheless, the traditional system continued to affect contemporary life, with individuals from low-status villages still likely to defer to those with higher status. Persons from low-status backgrounds tended to be less assertive in advocating for their communities' needs with the government. As a result, low-status communities sometimes continued to be underserved.

The national and state constitutions prohibit noncitizens from purchasing land, and a 2002 law continued to limit the occupations that noncitizens could fill. The national Congress granted citizenship to non-Micronesians only in rare cases. There is no permanent residency status. For the most part, however, noncitizens shared fully in the social and cultural life of the country.

Other Societal Abuses and Discrimination

There were no reports of societal violence or discrimination against homosexuals or against persons with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

Under the constitution, citizens have the right to form or join associations, and national government employees by law can form associations to "present their views" to the government without coercion, discrimination, or reprisals. For a variety of reasons—including the fact that most private-sector employment was in small-scale, family-owned businesses and citizens were not accustomed to collective bargaining—there were neither associations nor trade unions. Although foreign workers have the right to form unions, they did not do so.

b. The Right to Organize and Bargain Collectively

No law deals specifically with trade unions or with the right to collective bargaining, and there were no reports of collective bargaining agreements during the year. Individual employers, the largest of which were the national and state governments, set wages. There is no specific right to strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred. This prohibition does not mention specifically forced and compulsory labor by children, but there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

National and state laws do not establish a minimum age for employment of children. In practice there was no employment of children for wages; however, children often assisted their families in subsistence farming and in family-owned shops.

e. Acceptable Conditions of Work

Pohnpei had a minimum hourly wage rate of \$2.00 for government and \$1.35 for private-sector workers. The other three states had minimum hourly rates only for government workers: \$1.25 for Chuuk, \$1.49 for Kosrae, and \$1.60 for Yap. The minimum hourly wage for employment with the national government was \$2.64. These minimum wage structures and the wages customarily paid to skilled workers were sufficient to provide a decent standard of living for a worker and family. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective.

There are no laws regulating hours of work (although a 40-hour workweek was standard practice) or prescribing standards of occupational safety and health. A federal

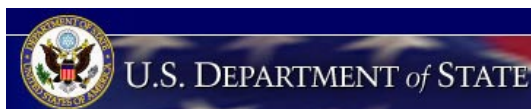
regulation requires that employers provide a safe workplace, but the Department of Health had no enforcement capability, and working conditions varied in practice. There is no law for either the public or private sector that permits workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Foreign workers were not subjected to abuse or deported without cause. They have the right to a hearing if facing deportation.

Working conditions aboard some Chinese-owned fishing vessels operating in the country's waters were very poor. Crewmen reported a high incidence of injuries, beatings by officers, and nonpayment of salary.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Mongolia

Country Reports on Human Rights Practices - 2007

Released by the Bureau of Democracy, Human Rights, and Labor

March 11, 2008

Mongolia, with a population of approximately three million, is a multiparty, parliamentary democracy. Observers noted minor irregularities in the 2005 presidential elections. Parliament (the State Great Hural), with the agreement of the president, selects the prime minister, who is nominated by the majority party. In November parliament confirmed S. Bayar of the Mongolian People's Revolutionary Party (MPRP) as prime minister, and a new coalition government was formed. Civilian authorities generally maintained effective control of the security forces, but there reportedly 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, the following human rights problems were noted: police abuse of prisoners and detainees; impunity; poor conditions in detention centers; arbitrary arrest, lengthy detention, and corruption within the judicial system; criminal defamation laws applied to journalists; continued refusal by some provinces to register Christian churches; sweeping secrecy laws and a lack of transparency; domestic violence against women; international trafficking of persons; and some domestic cases of 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

The government or its agents did not commit any politically motivated killings; however, abuse by security forces likely caused some deaths. In May 2006 the National Human Rights Commission (NHRC) reported that police abuse of suspects resulting in death was a persistent problem, and it cited numerous examples. There often was a lag time in reporting and investigating cases, and examples of new deaths in police custody during the year were not readily available.

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, especially in rural areas, occasionally beat prisoners and detainees, and the use of unnecessary force--particularly to obtain confessions--in the arrest process was common.

Nongovernmental organizations (NGOs) reported that cruel punishment was sometimes meted out to inmates by guards or police at police stations, prisons, and detention centers. The NGOs stated some inmates were burned with cigarettes, beaten with batons, or kicked in the shins with steel-toed boots. However, they stated that the overall level of excessive punishment declined during the year.

While the NHRC did not report on torture during the year, in 2006 it condemned persistent abuse of suspects, including some cases resulting in death. The NHRC asserted that among 1,338 detainees surveyed at eight pretrial detention centers in 2005, more than 70 percent of them had confessed under duress or actual force. Consistent credible evidence suggested that suspects were placed in cells with violent inmates whom investigators had instructed to coerce confessions.

In addition to a regular salary, police receive a bonus for closing cases; human rights organizations argued that this created an incentive for police to coerce quick confessions rather than fully investigate criminal activity.

During the year the NHRC reported that some military superiors commonly used force and humiliation against subordinates. It said a survey of soldiers found that in addition to punching and kicking subordinates, some superiors administered electric shocks using communication devices. The NHRC said that during a 10-month period in 2006, the Armed Forces Central Clinical Hospital admitted 12 soldiers for treatment, following severe beatings by superiors. The NHRC said soldiers were extremely reluctant to report such attacks.

Prison and Detention Center Conditions

Conditions in pretrial detention and prison facilities were generally poor. Insufficient food, heat, and medical care threatened the health and life of inmates. However, NGOs reported prison and detention center conditions generally improved during the year, particularly with regard to food quality and access to hot water. Nevertheless, access to prisons and detention centers by monitors from the diplomatic and human rights community was limited, and some monitors were "chaperoned" by public servants who forbade them to speak privately with inmates. Overcrowding continued to be a problem, especially at detention centers, where cells sometimes held eight persons in a space intended for two or three. According to NGOs, punishment for inmate misconduct or insubordination was swift and could include baton blows, kicks to the shins, or being burned with cigarettes. Guards often worked 24-hour shifts and reportedly drank heavily during their shifts.

Many inmates entered prison infected with tuberculosis (TB) or contracted it in prison. The government treated victims, either at prison, detention center clinics or the government's TB hospital. Generally, infected persons with active TB were isolated from the general prison population. Treatment was often problematic because many of the infected inmates had a drug-resistant strain of TB. NGOs stated the overall TB situation at prisons and detention centers improved slightly during the year. While the number of inmates who died from the disease declined significantly over the years, infection in prisons and detention facilities and poor treatment for the disease remained serious problems.

At military prisons, soldiers held in solitary confinement were sometimes denied potable water, fed as infrequently as once a day, and denied access to fresh air, according to the NHRC.

At least two domestic and six foreign NGOs, including Crossroads and Prison Fellowship Mongolia, worked to improve conditions in prisons and detention centers; some provided clothing, food, books, English-language instruction, and vocational training.

d. Arbitrary Arrest or Detention

The law provides that no person shall be searched, arrested, detained, or deprived of liberty except by specified procedures; however, arbitrary arrest and detention remained problems. General public awareness of basic rights and judicial procedures, including rights with regard to arrest and detention, was limited, especially in the countryside.

Role of the Police and Security Apparatus

Security forces are under the jurisdiction of the Ministry of Defense (MOD), the Ministry of Justice and Home Affairs (MOJHA), and the General Intelligence Agency (GIA). The MOD oversees national defense and assists in providing domestic emergency assistance and disaster relief, in support of internal security forces. National police operate under the MOJHA, as does the Border Force. The GIA, formerly the State Security Agency, is responsible for both internal security and foreign intelligence collection and operations. The GIA's civilian head reports directly to the prime minister. The State General Prosecutor's Office supervises undercover activities of the police and the intelligence agencies.

There was general agreement that corruption in law enforcement agencies was endemic. Some police officers were reportedly investigated by the Anti-Corruption Agency, which was established during the year. There were no major changes to prevent or punish police who abused detainees. The government, however, took efforts to improve training and professionalism of the security forces, including a workshop on the use of nonlethal weapons for crowd control.

Laws and mechanisms to investigate police abuses remained inadequate. A Special Investigative Unit (SIU) under the State General Prosecutor's Office investigates allegations of misconduct by law enforcement personnel, prosecutors, and members of the judiciary. Each year the SIU received between 600 and 700 complaints against law enforcement and conducted 300 to 350 investigations. In approximately 40 percent of these cases, criminal charges were brought against the accused. In another 40 percent of cases, complaints were dismissed, often because the parties reached a private settlement. The final 20 percent remained pending further action. According to the SIU, police frequently blocked or impeded the work of its investigators, particularly when the targets of investigation were high-ranking police officials.

Arrest and Detention

A judge-issued warrant is required prior to the arrest of a suspect; however, arrest without a warrant was believed to be fairly common. A "pressing circumstances" exception allows police to arrest suspects without obtaining a warrant, and this was widely used.

Under the criminal code, police must request a court order to continue holding a suspect after 24 hours. If permission is obtained, police may hold suspects for up to 72 hours before a decision is made to prosecute or release them. If a court order is not granted within 72 hours, the suspect must be released.

Detainees generally were informed promptly of the charges against them. The maximum pretrial detention with a court order is 24 months; an additional six months are allowed for particularly serious crimes such as murder. Detainees are allowed prompt access to family members, and during the year penal authorities increased the amount of food relatives could bring to detained family members. Detainees may be released on bail with the approval of a prosecutor.

A detainee has the right to a defense attorney during pretrial detention and all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the government must appoint an attorney. From January 1 through September 22, the government appointed attorneys in 799 cases nationwide, according to the Mongolian Attorneys Association. Despite this legal provision, many detainees were unaware of their right to a government-appointed attorney and did not assert it. There was a shortage of public-funded and pro bono attorneys for low-income defendants, particularly outside of Ulaanbaatar.

According to an administrative regulation, if a person is wrongly charged with a crime, the government must restore the person's rights and reputation and provide compensation; however, this regulation was rarely followed in practice.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice; however, corruption and outside influence were problems. Bribery could contribute to getting a case dismissed or a recommended sentence reduced, and blackmail and identity fraud were also a source of corruption. During the first nine months of the year, the investigative branch of the State General Prosecutor's Office investigated six judges for misconduct. One was convicted in July on corruption charges and received a five-year sentence. The verdict was overturned in September by a higher court but appealed to the Supreme Court, which in October found the judge guilty and handed her to a two-year suspended sentence.

The judiciary consists of district, provincial, and separate constitutional courts and a supreme court. The 17-member Supreme Court is the court of final appeal, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. District courts primarily hear routine criminal and civil cases, while more serious cases, such as murder, rape, and grand larceny, are sent to the provincial courts. Provincial courts also serve as the appeals court for lower court decisions. The Constitutional Court, which is separate from criminal courts, has sole jurisdiction over constitutional questions. The General Council of Courts, an administrative body within the MOJHA, nominates candidates for vacancies on the courts; the president has the power to approve or refuse such nominations. The council also is charged with protecting the rights of judges and providing for the independence of the judiciary. The military judicial system was abolished in 1993; since then all military cases have been handled in civilian courts.

Trial Procedures

The law provides for the right to a fair public trial by a judge. Juries are not used. Closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases as provided by law. Defendants may question witnesses, present evidence, and appeal decisions. The law provides that defendants are innocent until proven guilty.

Despite these provisions, trial procedures were often plagued by legal inconsistencies. There was a shortage of state-provided defense lawyers, and many defendants lacked adequate legal representation. Confessions, many of which were coerced by police, were often relied upon in convicting defendants.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees. However, after the August 31 conviction of Ninjin Demberel for slander against two senior government officials, human rights NGOs accused the authorities of jailing a citizen simply for exercising his right to free speech.

Civil Judicial Procedures and Remedies

Corruption and outside influence were problems in the civil judicial system, and enforcement of court orders was also a problem. Although victims of police abuse were able by law to sue for actual damages, few were able to actually claim compensation.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice; however, the head of the GIA, with the knowledge and consent of the prime minister, was allowed to direct the monitoring and recording of telephone conversations. The extent of such monitoring was unknown. Police wiretaps must be approved by the prosecutor's office and were authorized for two weeks at a time.

In September and October, a number of Ulaanbaatar-based foreign missionaries, mostly from other Asian countries, reported being detained by police and subjected to lengthy questioning. The detentions apparently were aimed at identifying foreigners who remained in the country after their visas had expired.

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, government interference with licensing and indirect intimidation of the press, particularly broadcast media, was a problem. Access to information was limited by a far-reaching State Secrets Law, which limited freedom of information and government transparency.

A variety of newspapers and other publications represented both major political parties and independent viewpoints. The MOJHA licensed newspapers, television and radio broadcasters, and magazines. The media law bans censorship of public information and any legislation that would limit the freedom to publish and broadcast; however, perceived self-censorship was believed to be a growing problem during the year. The government monitored all media for compliance with antiviolenence, antipornography, antialcohol, and tax laws.

During the year violence against journalists occurred, and the government failed to prosecute the attackers. According to the NGO Globe International, three journalists were physically attacked during the year. According to press reports, on June 24, the manager of an Ulaanbaatar restaurant attacked a newspaper photojournalist who was taking photos of the restaurant. The manager kicked the journalist in the head and broke his camera. The journalist then attempted to report the attack at the Sukhbaatar District Police Station, but he was rebuffed on two occasions.

Police and other government officials sometimes impeded the work of journalists. On February 25, police physically prevented a newspaper journalist, G. Erdenetuya, from photographing the wreckage of a helicopter crash that claimed more than a dozen lives.

While there was no direct government censorship, the press alleged indirect censorship in the form of government and political party harassment, such as frequent libel complaints and tax audits. The law places the burden of proof on the defendant in libel and slander cases. Both libel and "insult" were criminal charges.

In August former government spokesperson Ninjiin Demberel was convicted of insulting President Enkhbayar and a member of Parliament, Ch. Ulaan, and received a four-month sentence. In an interview, Demberel had accused Ulaan of being "merely a puppet" with "no opinions of his own."

In April and May, prosecutors filed criminal charges against a reporter, B. Tsognemekh, and his editor, B. Ganbold, both of the popular *Zuuny Medee* newspaper. The reporter wrote articles in late 2006 and early 2007 that suggested that Ch. Ulaan was guilty of corruption and abuse of power. At year's end the reporter faced a potential sentence of up to three months on an insult charge and up to six months on a libel charge.

Media watchdogs stated many newspapers were affiliated with political parties or owned (or partly owned) by individuals affiliated with political parties, and that this affiliation strongly influenced the published reports. The watchdogs also complained that underpaid reporters frequently demanded payment to cover or fabricate a story. Broadcast media were similarly not free of political interference. A lack of transparency during the tender process and lack of a truly independent licensing authority inhibited fair competition for broadcast frequency licenses and benefited those with political connections. At the provincial level, local government control of the licensing process similarly inhibited the development of independent television stations.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The government estimated that 280,000 citizens were Internet users via their own connections and many more used Internet or cyber cafes. Internet access expanded during the year to remote areas as a result of government and private sector efforts.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

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.

All NGOs, including religious groups, were required to register with the MOJHA. Local assemblies approve applications at the local level, and then MOJHA issues the registration once local approval is obtained. Registration and reregistration were burdensome for religious groups and could take years. The length and documentation requirements of the process reportedly discouraged some organizations from applying. Some provincial authorities reportedly used the registration process to limit the number of places for religious worship; however, this practice was not universal. In Ulaanbaatar, at least nine places of worship were constructed during the year, including a larger church in the Songinokhairkhan District. According to NGOs, the government's approval of places of worship was not a straightforward process; although no religious organization was prevented from acquiring land on which to build a house of worship, in many cases the land was first acquired by an individual and then transferred to the organization following construction of the house of worship. Some places of worship avoided being authorized as such because of bureaucratic difficulties and instead characterized themselves as a fitness center or a cultural center. No churches were known to have been refused registration in Ulaanbaatar. However, in Tov Province, near Ulaanbaatar, authorities continued routinely to deny registration to churches. No churches were registered in that province during the year. A number of churches in Tov Province brought complaints to the NHRC in May, and the NHRC raised the issue with Tov authorities, noting NHRC concern that the constitution was being violated. By year's end the Tov authorities had not made any public response.

The country's Muslim minority--ethnic Kazakhs concentrated in the western part of the country--generally enjoyed freedom of religion. However, the government monitored the Kazakh community closely for any activity that could be construed as extremist or separatist.

The law does not prohibit proselytizing, but it forbids the use of incentives, pressure, or "deceptive methods" to introduce religion. Some Muslim citizens complained during the year that foreign (Christian) missionaries were using material goods to attract poorer Muslims to church activities in violation of the law.

Societal Abuses and Discrimination

Societal attitudes were generally tolerant, and there was little overt or egregious discrimination based on ethnicity, national origin, gender, or sexual preference. An exception, however, was that Chinese citizens were widely treated with suspicion and sometimes with contempt. There were no reports of anti-Semitic acts during the year. There was no identified Mongolian Jewish population, and the number of resident Jews was very small.

For a more detailed discussion, see the *2007 International Religious Freedom Report*.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

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

Protection of Refugees

Although the country is not a party to the 1951 UN Convention relating to the Status of Refugee, and its laws do not provide the granting of asylum or refugee status, the government provided protection against refoulement, the return of persons to a country where there is a reason to believe they feared persecution. During the year the government developed a system for providing protection to refugees, referring to them as "humanitarian cases" rather than refugees. More than 400 entered the country from China during the year, and the government allowed them to be resettled elsewhere. The government's refusal to accede to the 1951 convention was fueled by continued concern about the potential for large numbers of migrants to arrive from neighboring countries.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

Stateless Persons

Two stateless persons resided in the country during the year. Both potential countries of origin denied they were citizens of their 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 in practice through periodic, free, and fair, elections held on the basis of universal suffrage. The law limits the president to two four-year terms; parliamentary and local elections are held separately, also for four-year terms.

The law provides that the majority party in parliament, in consultation with the president, shall appoint the prime minister. The demarcation of powers between the president and the prime minister has been the subject of several constitutional amendments and court challenges. Members of parliament may serve as cabinet ministers. There is no requirement that the prime minister or other ministers be a member of parliament.

Elections and Political Participation

No presidential or parliamentary elections were held during the year. Only minor irregularities were observed in the 2005 presidential election of N. Enkhbayar. In a September 2006 parliamentary by-election, observers found some minor problems but no major irregularities. The campaign and balloting processes for the June 2004 parliamentary elections were marred by violations and inconsistencies. Two seats were disputed and resolved in court in 2005.

The potential for bias within the General Election Commission was a concern, particularly for smaller political parties. Although the nine commissioners were not allowed to be current party members, all had belonged to parties previous to their appointments. Seven of the nine had belonged to the same party.

By year's end there were 17 political parties that had registered with the Supreme Court. No party disbanded or lost its registration during the year. Two new parties registered during the year: the Civil Movement Party and the Development Program Party. Three parties took part in the coalition government that was formed in December: the formerly communist Mongolian People's Revolutionary Party, the Civil Will Party, and the New National Party.

There were no legal impediments to the participation of women or minorities in government and politics. There were five women in the 76-member parliament. Three of the 16 cabinet ministers were women, as were seven of the 17 Supreme Court justices. Women and women's organizations were vocal in local and national politics and actively sought greater female representation in government policymaking.

There were three ethnic Kazakhs serving in parliament. There were no members of minorities serving in the cabinet or the Supreme Court.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Corruption was perceived to be a serious and continuing problem at all levels of government, particularly within the police, judiciary, and customs service. Varying degrees of corruption at most levels of government resulted in a blurring of the lines between the public and private sectors. Conflicts of interest were rife. The problem was compounded by weak governmental oversight bodies and media that frequently failed to expose corruption.

The criminal code proscribes the acceptance of bribes by officials and provides for fines or imprisonment of up to five years. It also outlaws offering bribes to government officials. However, corruption-related arrests, let alone convictions, were exceedingly rare.

A new Anti-Corruption Agency (ACA) was launched in January, and in September it received authority to investigate corruption cases. In late September the ACA stated that nearly all of the country's 252 most senior officials had complied with a new requirement to declare their assets and income (and those of relatives, including spouses, parents, children and live-in siblings). The ACA is also required to review the asset declarations of public servants, including police officers and members of the military, and this was being carried out in practice. The ACA was reluctant to publicize its activities, but reportedly investigated a number of individuals and government entities, including the National Emergency Management Agency (NEMA), the customs and tax authorities, the Ulaanbaatar Mayor's Office, and the Traffic Police. On December 18, ACA investigators reportedly arrested a senior NEMA official on suspicion of corruption.

Government and parliamentary decision making was not transparent, and public legislative hearings were rare. The far-reaching State Secrets Law inhibited freedom of information and government transparency, while also undermining accountability. The law also hinders citizen participation in policy discussions and government oversight. During the year a parliamentary working group was formed to study amendments to the State Secrets law. Meanwhile, there were public calls to amend the law and implement the equivalent of a freedom of information act. Parliament was to address the issue of a draft freedom of information law during its fall session, but by year's end no concrete action had been taken. Judicial transparency improved during the year, thanks in part to a new Web site at which citizens could access information on court decisions.

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.

With assistance from the UN Development Program, a local representative in each provincial assembly monitored human rights conditions, among other duties.

The NCHR consists of three senior civil servants nominated by the president, the Supreme Court, and parliament, for terms of six years. The NCHR is responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. The NCHR reports directly to parliament. In its reports, the NCHR repeatedly criticized the government for abuses of the power of arrest and detention, poor conditions in detention and prison facilities, lengthy detentions without trial, and failure to implement laws related to human rights.

The government allowed midlevel civil servants to receive human rights training through seminars, conferences, and lectures.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law states that "no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status," and that "men and women shall be equal in political, economic, social, cultural fields, and family." The government generally enforced these provisions in practice.

Women

Rape and domestic abuse are illegal, and offenders can be prosecuted after formal charges have been filed; however, there is no law specifically prohibiting spousal rape, and rape remained a problem. During the first seven months of the year, there were 244 cases of rape reported to authorities; in all of 2006, there were 314. Many rapes, however, were not reported. NGOs stated that police procedures were stressful to victims and tended to discourage reporting of the crime. Social stigma also lowered the number of reported cases.

According to NGOs, police referred for prosecution only a minority of rape cases, largely on the basis that there was insufficient evidence for prosecution. Post-rape medical examinations were available, and results were occasionally used as evidence; however, such exams were not always available in remote areas. NGOs stated negative attitudes among some police resulted in some cases not being referred to prosecutors. The Criminal Code outlaws sexual intercourse through physical violence (or threat of violence) and provides for sentences of up to five years. In the event that the victim was injured or tortured, or was a minor, the penalty could reach five to 10 years. Such a crime committed by a recidivist, or inflicting death, or victimizing a child under 14 years of age, could result in imprisonment for 15 to 25 years, or application of the death penalty.

Domestic violence against women was a serious problem, particularly among low-income rural families; according to NGOs, alcohol played a factor in perhaps two-thirds of incidents. The law requires police to accept and file complaints, visit the site of incidents, interrogate offenders and witnesses, impose administrative criminal penalties, and bring victims to refuge. It also provides for sanctions for offenders, including expulsion from home, prohibitions on the use of joint property, prohibitions on meeting victims and on access to minors, and compulsory training aimed at behavior modification. However, this level of service was rarely provided by the police, who lacked sufficient funding and, according to women's NGOs, often were reluctant to intervene in what has long been viewed as an internal family matter.

There were no reliable statistics regarding the extent of domestic abuse; however, an NGO focused on this problem, the National Center Against Violence (NCAV), reported that during the year, 11 persons were convicted for this offense. The NCAV said that during the year it received 368 requests for temporary shelter and provided psychological counseling to 436 victims. The NCAV operated five shelters for victims and had 15 branches across the country.

There was increasing public and media discussion of domestic violence, including spousal and child abuse. However, victims were culturally informed not to step forward, in order to avoid "airing their family's dirty laundry." A vast majority of the perpetrators were men.

Divorced women secured alimony payments under the family law, which details rights and responsibilities regarding alimony and parents' rights. The ex-husband and ex-wife evenly split property and assets acquired during their marriage. However, women's activists said that because businesses were usually registered under the husband's name, ownership was increasingly transferred automatically to the ex-husband.

Prostitution is illegal, as is public solicitation for prostitution and organizing prostitution. Women's activists claimed that in Ulaanbaatar alone there were hundreds of brothels posing as saunas, massage parlors, and hotels. Some were occasionally raided by police. Some women worked abroad in the sex trade; an unknown number of them were trafficked.

There are no laws against sexual harassment. According to NGOs, there was a lack of awareness within the society on what constituted inappropriate behavior, making it difficult to gauge the actual extent of the problem. A 2004 NHRC survey found that one out of every two employed women under the age of 35 identified herself as a victim of workplace sexual harassment.

The law provides men and women with equal rights in all areas, including equal pay for equal work and equal access to education. In most cases, these rights were enjoyed in practice. Women's activists stated that in at least two areas--information technology and mining--women were paid less than men for the same work.

Women represented approximately half of the workforce, and a significant number were the primary wage earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health, and the government effectively enforced these provisions. Many women occupied midlevel positions in government and business, and many were involved in the creation and management of new trading and manufacturing businesses.

There was no separate government agency to oversee women's rights; however, there was a national council to coordinate policy and women's interests among ministries and NGOs, and the Ministry of Social Welfare and Labor had a Division for Women and Youth Issues. There were approximately 40 women's rights groups concerned with issues such as maternal and child health, domestic violence, and equal opportunity.

Children

The government remained committed to children's rights and welfare, although it was unable to keep pace with the educational, health, and social needs of this rapidly growing segment of the population. The government provided children with free and compulsory public education through the age of 16; however, family economic needs and state budgetary troubles made it difficult for some children to attend school. In practice female children above age 15 had better opportunities to complete their education than male children, because teenage males often were required to work at home, and schools generally were located far from homes. In addition there continued to be a severe shortage of teachers and teaching materials at all educational levels.

Children generally had access to medical care, although in remote areas, clinics and hospitals were not always accessible. Each province had at least one government-run clinic, and each clinic had a children's section. By law citizens under the age of 18 have a right to free medical service at state clinics and hospitals. However, children's access to medical care declined during the year, due to a drop in the number of working pediatricians.

Child abuse took two main forms: violence and sexual abuse. According to the governmental National Center for Children (NCC), both problems were most likely to occur within families. The NCC stated five persons were convicted of child sexual abuse during the year and three others were under investigation at year's end. In one case, a father was sentenced to death for sexually abusing his nine-year-old daughter, the NCC reported.

Child prostitution--involving those under 18--was a problem. According to the NGO Gender Equality Center, in the last four months of the year, at least three girls

between the ages of 15 and 17 were kidnapped in Ulaanbaatar and forced to work as prostitutes. Police raids freed some victims; however, NGOs claimed other police officers worked with procurers and brothel keepers.

Although society has a long tradition of raising children in a communal manner, societal and familial changes orphaned many children. Child abandonment was a problem; other children were orphaned or ran away from home as a result of abuse, much of it involving alcohol. According to the NGO Globe International, Ulaanbaatar alone was home to 55 orphanages, most of them small. Approximately 1,800 children were estimated to be living without parental figures. Experts estimated in 2005 that there were approximately 1,300 homeless children, of whom about 70 lived on the street; the remainder lived in shelters that were often run by NGOs receiving foreign funding. Street children sometimes faced sexual abuse.

The government was more willing than in the past to admit the extent of the problem, but it lacked the resources to improve the welfare of children who became victims. The National Committee for Children sought to address this and other child welfare problems. There were two government-funded but privately owned and administered shelters, one for children up to age three and the other for children ages three to 16. Foreign charities operated more than 40 other shelters.

Trafficking in Persons

The law specifically prohibits the "sale or purchase of humans" and provides for imprisonment of up to three years, or in egregious cases, up to 15 years; however, it does not cover the recruitment, transportation, or harboring of trafficking victims, and the country remained a source of internal and transnational trafficking. In some cases trafficking was carried out not only for sexual exploitation but also for labor exploitation.

According to a 2006 NGO study, women between 19 and 35 years of age were most vulnerable to trafficking, particularly those with low incomes or unemployed. Most victims worked abroad in commercial sexual exploitation, often in China, to which citizens can travel without visas. However, cases in destinations such as South Korea, Japan, Malaysia, Turkey, and Switzerland were alleged or confirmed. Local NGOs cited an increase in internal sex trafficking, including at least three cases in which girls aged 15 to 17 were abducted, transported to a hotel and forced into prostitution. One NGO, the Gender Equality Center (GEC), operated a trafficking hot line which received 118 calls during the year. The GEC and other NGOs also helped Mongolians who had ended up in debt-bondage situations abroad. There were also reports of involuntary servitude by Mongolian women who entered into foreign marriages, largely with Korean men.

Some men were also trafficked to Kazakhstan for labor.

The Criminal Code provides for three years' imprisonment, fines, or forced labor for a person convicted of the "sale or purchase of humans." The sentence can reach five to 10 years if the crime was committed against a minor, or against two or more persons, or was for the purpose of forced prostitution. If the same crime was committed by an organized criminal organization or inflicted "grave harm," it can be punishable with a prison term of 10 to 15 years. During the year no one was convicted of trafficking in persons. The police opened nine trafficking cases involving 31 victims and 16 perpetrators, and referred seven cases to the attorney general for prosecution. The attorney general presented them to the District Court for trial. Three cases resulted in convictions under the law on forced prostitution.

The government acknowledged the trafficking problem and took steps to prevent the crime, identify and prosecute traffickers, and assist victims. During the year the International Organization for Migration (IOM) and other NGOs provided trafficking-related training to immigration officials, police investigators, prosecutors, railway police, GIA officials, and officials of the Ministries of Foreign Affairs and Social Welfare/Labor, among others. In addition foreign law enforcement experts trained local police on techniques for investigating trafficking and developing cases. The government also sent a study team to Macau, where a number of Mongolian women were believed to be involved in the sex trade, and negotiated the opening of a consulate there.

NGO representatives reported that protections for victims and witnesses were extremely limited. Social stigma also inhibited victims from telling their stories. The government had limited resources, divergent priorities, and provided no specific direct assistance for trafficking victims. NGOs offered support when possible, and the government relied on NGOs to increase awareness and initiate prevention programs. During the year authorities began to implement the national action plan against trafficking and sexual exploitation of women and children, including enhanced efforts by Mongolian diplomatic missions to combat the problem and assist victims.

Persons with Disabilities

The labor law prohibits discrimination in employment and education against persons with disabilities. The Law on Social Protection of the Disabled gives provincial governors and the Ulaanbaatar governor the responsibility to implement measures to protect the rights of persons with disabilities. However, NGOs claimed that the government did little to execute such measures, and in practice most persons with disabilities faced significant barriers to employment, education, and participation in public life.

On August 3, parliament approved amendments to eight laws in ways that expanded or bolstered the rights of persons with disabilities. One change required companies with 25 or more employees to reserve at least 4 percent of positions for persons with disabilities. Previously, the statute applied to companies with 50 or more employees. Another amendment required companies with workers with disabilities to make their workplace disabled-friendly or face a fine. Another change required bus companies with 20 or more buses to make at least half of those vehicles wheelchair-accessible. Other changes voided taxes and tariffs on equipment for persons with disabilities, such as wheelchairs.

According to the National Statistics Office, only 26 percent of persons with disabilities were employed. The government provided tax benefits to enterprises that hired persons with disabilities, whom some firms hired exclusively. Persons injured in industrial accidents had the right to reemployment when ready to resume work, and the government offered free retraining at a central technical school.

There is no general law mandating access to buildings for persons with disabilities, which made it difficult for these persons to participate fully in public life. There were no government buildings accessible to persons with disabilities. The NHRC reported that 60 percent of children with disabilities had never visited a cultural institution due to lack of accessibility, inadequate transportation, or other barriers. Public transportation was also largely inaccessible to persons with disabilities, as no transportation company provided accommodations for individuals with mobility impairments.

There were several specialized schools for youth with disabilities, but these students also were free to attend regular schools. In practice children with disabilities had limited access to education. The Mongolian National Federation of Disabled Persons' Organizations (MNFDPPO) estimated that of the country's 35,000 children with disabilities, 61 percent failed to complete secondary education. Schools for the disabled could only accommodate 2,200 children.

The law also requires the government to provide benefits according to the nature and severity of the disability. Although the government generally provided such benefits, the amount of financial assistance was extremely low, and it did not reach all persons with disabilities. After significant lobbying by members of the disabled community, the government approved in August an increase in pensions for qualifying persons with disabilities. According to the MNFDPO, approximately 20,000 persons with disabilities were unable to draw an allowance from the government.

Persons with disabilities could not fully participate in the political process. Little accommodation was made for persons with disabilities at polling stations, and there were no disabled representatives in parliament. Persons with disabilities also had difficulty remaining informed on public affairs due to a lack of accessible broadcast media.

In addition to government efforts, 44 NGOs participated in activities assisting persons with disabilities.

National/Racial/Ethnic Minorities

A handful of nationalist and xenophobic groups threatened to kill Chinese residents, attack or burn down their businesses, and cut the hair of any Mongolian woman in a relationship with a Chinese man. During the year there were at least a dozen credible reports of violence against Chinese residents. The government, as an institution, took steps to protect the rights of Chinese residents; but privately, many government officials also harbored suspicions against Chinese residents.

The constitution states that "All persons lawfully residing within Mongolia are equal before the law and the courts." However, some foreign businesspersons resident in the country complained that government tax and licensing authorities subjected them to much greater scrutiny than domestic competitors. Other foreign entrepreneurs complained privately that they were disproportionately targeted for shakedowns by corrupt government officials, including police.

Other Societal Abuses and Discrimination

Homosexuality is not specifically proscribed by law. However, Amnesty International and the International Lesbian and Gay Association criticized a section of the penal code that refers to "immoral gratification of sexual desires," arguing that it could be used against homosexuals. Homosexuals reported harassment by police, but remained divided over the overall level of societal discrimination.

There was no official discrimination against those with HIV/AIDS; however, some societal discrimination existed.

Section 6 Worker Rights

a. The Right of Association

The law entitles all workers to form or join unions and professional organizations of their choosing, and the government respected this right in practice. However, some legal provisions restrict these rights for groups such as foreign workers, public servants, and workers without employment contracts. The country's largest labor group, the National Confederation of Mongolian Trade Unions, alleged in September that at some garment factories run by joint ventures, management illegally prevented workers from setting up a union.

Union officials estimated that union membership declined over the years to 220,000, out of a total workforce of roughly 860,000. Approximately 400,000 of these workers were self-employed. Workers who were self-employed or who worked at small firms generally did not belong to unions. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

b. The Right to Organize and Bargain Collectively

The law regulates relations among employers, employees, trade unions, and the government. The government's role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. The Labor Dispute Settlement Commission resolves disputes involving an individual; disputes involving groups were referred to intermediaries and arbitrators for reconciliation.

The law provides for the right to strike, and workers exercised this right in practice. If an employer fails to comply with a recommendation by a majority of workers, with union involvement or without, employees may exercise their right to strike. The law protects worker rights to participate in trade union activities without discrimination. However, the government does not allow intervention in collective bargaining by third parties and prohibits third parties from organizing a strike. The International Labor Organization Committee of Experts described this as a "serious restriction on the free functioning of trade unions" and requested the government to change it.

Persons employed in essential services, which the government defines as occupations critical for national defense and safety, including police, utility, and transportation workers, do not have the right to strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law specifically prohibits forced or compulsory labor, including children; however, there were isolated reports that such practices occurred.

The NHRC stated that military officials reportedly subjected subordinates to forced labor, requiring them to perform tasks such as cutting firewood, digging ditches, or working at construction sites owned by the superiors' friends or relatives.

An unknown number of North Korean laborers were employed in the country, primarily in the construction and service industries. The Ministry of Social Welfare and Labor did not monitor the working or living conditions of these workers, and there was concern that some North Korean workers were not free to leave their employment or complain about unacceptable work conditions. These workers were reportedly monitored closely by "minders" from their government and did not routinely receive direct and full salary payments. Possible pressure on family members in North Korea raised additional concerns that the labor of these workers was not fully voluntary.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under age 18 may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Labor inspectors assigned to regional and local offices were responsible for enforcement of these prohibitions, as well as all other labor regulations. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited, due to the small number of labor inspectors and the growing number of independent enterprises.

Children worked informally in petty trade, scavenging in dumpsites, in unauthorized small-scale mining, and herding animals. Widespread alcoholism and parental abandonment made it necessary for many children to have an income to support themselves. Unconfirmed estimates placed the number of children in the labor force as high as 58,000.

In addition, due to economic pressures, many children, especially teenage boys in the countryside, dropped out of school before age 18. Children most often herded family livestock, but reports of children working in factories or coal mines continued.

International organizations continued to voice concern over child jockeys in horse racing. According to the NHRC reports, more than 30,000 child jockeys compete in horse races each year. Mongolian children commonly learn to ride horses at age four or five, and young children traditionally serve as jockeys during the national Naadam festival, where horse races range from two to nearly 20 miles.

In addition to the Naadam festival, rights groups have expressed concern over the rise and proliferation of commercial horse racing involving child jockeys. Such races often occurred during the winter when temperatures average minus 13 degrees Fahrenheit. The UN called on the government to prohibit the employment of children under 16 as jockeys; however, the government did not take any such action by year's end.

e. Acceptable Conditions of Work

The legal minimum wage rose in October from \$58 (69,000 tugrik) per month to nearly \$76 (90,000 tugrik). This minimum wage, which applied to both public and private sector workers and was enforced by the labor ministry, did not provide a decent standard of living for a worker and family. Some workers received less than the minimum wage, particularly at smaller companies in rural areas.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. For those 14 and 15 years of age, the workweek is 30 hours; and for those 16 and 17 years of age, the workweek is 36 hours. By law overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited from working overtime by law. These laws generally were enforced in practice.

There is no law mandating sick leave for workers. Each employer sets its own rules in this regard, according to the Government.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards. However, the near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the mining, power, and construction sectors. According to the National Confederation of Mongolian Trade Unions, 50 to 60 Mongolian workers die each year in work-related accidents. Enforcement of occupational health and safety standards was inadequate. At year's end parliament was expected to consider a draft law on occupational safety.

Foreign workers, a majority of whom were Chinese construction workers, generally enjoyed the same protections as citizens, despite often working in low-wage jobs and living under spare conditions. However, away from the construction sites, the Chinese workers were sometimes subjected to hostility and suspicion from host-country citizens. Scrutiny of Chinese workers was increased during the year by inflammatory media reporting. A small number of North Korean workers may not have been able to speak out about working conditions, due to various pressures and restrictions.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Nauru

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Nauru is a constitutional republic with a population of approximately 9,300. The most recent parliamentary elections, held in August, were generally free and fair. There are no formal political parties. The unicameral parliament elects one of its members to be the president, who is both chief of state and head of government. In August Parliament reelected President Ludwig Scotty, but following a vote of no confidence in December, he was replaced by Marcus Stephen, who named a new government. The civilian authorities generally maintained effective control of the security force.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. Few human rights problems were reported. At year's end 82 asylum seekers were being held at Australia's refugee processing center in the country.

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 constitution prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison conditions were austere but generally met international standards.

The government affirmed it would permit visits by independent human rights observers, but none were reported. Prison visits by church groups and family members were permitted.

Since 2001 the country has hosted a refugee processing and detention center funded by Australia and operated by the International Organization for Migration (IOM). In March the Australian government transferred 82 Sri Lankan Tamil asylum seekers to the facility. They joined seven Burmese asylum seekers of the Rohingya minority who had been at the facility since September 2006. On December 9, the Burmese were granted refugee status by Australia and removed to Australia for resettlement. Australian human rights organizations and some politicians repeatedly expressed concern about the detention center's isolation and austere conditions and called for the asylum seekers to be removed from Nauru. The newly elected Labor government in Australia announced its intention to end the processing of asylum seekers on Nauru in the near term.

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 country has no military force. The Ministry of Justice oversees the 108-member police force. An expatriate police commissioner and four expatriate advisors are seconded to the police force under a cooperative agreement with Australia. There were no reported cases of police corruption or impunity.

Arrest and Detention

Arrests are made openly, based either on warrants issued by authorized officials or for proximate cause by a police officer witnessing a crime. Police may hold a person for no more than 24 hours without a hearing before a magistrate. There was a functioning bail system. The law provides for accused persons to have access to legal assistance, but in practice qualified assistance was not always readily available. Detainees were allowed prompt access to family members.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

The Supreme Court is the highest court addressing constitutional issues; it is presided over by the chief justice. Parliament cannot overturn court decisions. Under the Appeals Act, the High Court of Australia may review criminal and civil cases, but this rarely was done. A resident magistrate presides over the District Court and is also chairman of the Family Court's three-member panel. Three lay magistrates handle simple cases; serious matters are given directly to the Supreme Court. The constitution also provides for two quasi-courts: the Public Service Appeal Board and the Police Service Board. The chief justice presides over both boards.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Procedural safeguards are based on English common law. They include the presumption of innocence; the right to be informed promptly of charges; a guarantee of adequate time and facilities to prepare a defense; the right to confront witnesses, present evidence, and appeal convictions; the right to trial by jury; and a prohibition on double jeopardy and forced self-incrimination. Trials are public, defendants have the right to legal counsel, and a representative for the defense is appointed at public expense when required "in the interest of justice." Bail and traditional reconciliation mechanisms rather than the formal legal process were used in many cases, usually by choice but sometimes under communal pressure. These rights were extended to all citizens without exception.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of "expression," and the government generally respected freedom of speech and of the press in practice.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. The government significantly relaxed restrictions that had previously prevented members of the Church of Jesus Christ of Latter-day Saints (Mormons) and the Jehovah's Witnesses from practicing their religion freely and openly. The government permitted missionary work by foreign religious groups previously barred from entering the country for missionary activities.

Societal Abuses and Discrimination

The relationships among religions generally were amicable, although there was a degree of societal intolerance toward religions other than established Christian denominations. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

Neither the constitution nor law specifically provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but the government generally respected these rights in practice.

Neither the constitution nor law prohibits forced exile; however, 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; the country is a party to neither. Although the government has not established a system for providing protection to refugees, under its 2001 agreement with Australia establishing refugee processing centers, the country undertook not to commit refoulement, the return of persons to a country where there is reason to believe they feared prosecution. The government did not accept refugees for resettlement, nor did it grant refugee status or asylum. However, the government cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

Beginning in 2001 the country hosted an Australian government processing center for persons seeking asylum in Australia who had been apprehended at sea while attempting to enter Australia illegally. These persons were granted visas and detained under national law while their status as refugees was determined and possible applications for asylum in Australia or elsewhere were adjudicated. They were held in facilities funded by Australia but administered by IOM officials. The UNHCR took a limited role, on "an exceptional basis," in conducting refugee determinations of some applicants when the processing centers were first opened. In subsequent years the UNHCR also assisted in resettling some successful applicants in other countries. The UNHCR visited the center in July.

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

The constitution and law provide 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

Citizens 20 years and older, in compulsory voting, directly elect an 18-member unicameral parliament for a term of three years. Following general elections in August, Parliament reelected Ludwig Scotty as president. Multiple candidates stood for all parliamentary seats in each of the country's eight constituencies. Political parties could operate without restriction or outside interference. On December 19, President Scotty lost a parliamentary vote of no confidence, and his government was replaced by a loose coalition of parliamentarians who opposed him.

Independent election observers concluded that the August elections were credible, with voters able to freely exercise their will. However, the observers voiced concern over the perceived increase in the use of cash in election campaigning and allegations of vote buying.

There are no legal impediments to participation in politics by women, but in general women traditionally have been less prominent in politics than men. Eight women stood as candidates in the August elections, but none were elected to Parliament. Women held some senior civil service positions, including the head of the civil service and the presidential counsel.

There were no members of minorities in Parliament or the cabinet.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not consistently implement these laws, and officials sometimes engaged in corrupt practices with impunity. Accusations of corruption by a government minister contributed to the toppling of the Scotty government on December 19. There are no financial disclosure laws or specific government agencies responsible for combating government corruption.

There are no legal provisions providing for public access to government information, and the government did not freely provide such access. An independent observer team to the August elections commented on lack of public access to information relating to major election issues.

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

There were no government restrictions on establishing local human rights organizations, but no such groups existed. There were no reports that the government sought to constrain the creation of such bodies. The government worked harmoniously with the IOM, which managed the processing center with Australian authorities.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of race, place of origin, color, creed, or sex, and the government generally observed these provisions.

Women

Rape is a crime punishable by up to life imprisonment. However, there was no information regarding the extent of rape or domestic violence. Police investigated all reports of rape thoroughly, and cases were vigorously prosecuted by the courts. Spousal rape is not specifically identified as a crime, but police investigated and filed charges when allegations of rape were made against a spouse.

The government kept no statistics on the incidence of physical and domestic abuse against women. However, credible reports indicated that sporadic abuse occurred, often aggravated by alcohol use. Families normally sought to reconcile such problems informally and, if necessary, communally. The police and judiciary treated major incidents and unresolved family disputes seriously.

Prostitution is illegal, but there were no reports of such activity during the year.

Some forms of sexual harassment are crimes, but sexual harassment was not a serious problem.

The law grants women the same freedoms and protections as men. The government officially provides equal opportunities in education and employment, and women may own property and pursue private interests. However, in practice societal pressures and the country's impoverished economic circumstances often limited opportunities for women to exercise these rights fully. The Women's Affairs Office was responsible for promoting professional opportunities for women.

Children

Government resources for education and health care for children were severely constrained by the country's economic crisis. Education is compulsory, free, and universal until age 16, but in practice not all school-age children attended school. In 2006, 90 percent of children of primary school age attended school. At the secondary level, 56 percent of eligible children attended school. Most children did not complete secondary school.

Government health care was free and available equally to boys and girls, but facilities and services were minimal.

Child abuse statistics were not compiled, and there were no reported cases of child abuse or child prostitution during the year. However, anecdotal evidence indicated that abuse occurred.

Trafficking in Persons

The constitution and law do not prohibit trafficking in persons, but there were no reports of persons trafficked to, from, or within the country.

Persons with Disabilities

The law does not specifically prohibit discrimination against persons with disabilities. Nonetheless, there was no reported discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. No legislation mandates services for persons with disabilities or access to public buildings. Department of Education teachers provided rudimentary schooling for a small group of students with disabilities, holding classes in a teacher's home as no classroom was available.

There was no government agency with specific responsibility for protecting the rights of persons with disabilities, nor was there any specific government support to facilitate voting or participation in civic affairs by such persons. There are no formal mechanisms to protect persons with mental disabilities.

National/Racial/Ethnic Minorities

A pattern of petty theft, property damage, and assault directed at the ethnic Chinese community continued during the year. Ethnic Chinese composed 5 to 8 percent of the population. Police attributed most attacks on ethnic Chinese to economic motivations and noted a general trend of theft-related attacks against the country's few private businesses, such as stores and restaurants.

Some members of a small community of nationals from the People's Republic of China (PRC) who formerly worked in the mining industry remained in the country. In August 2006 government figures put the number of PRC workers and their family members at 132, but at year's end officials no longer knew the exact size of the community. There were reports that some of the workers departed the country during the year. The PRC workers previously had been provided free housing as part of their contracts, and they continued to occupy this housing. However, it was no longer maintained by the mining company and had become derelict. Some of the workers, who were owed back wages by their former employer, received a government stipend of approximately \$44 (A\$50) every other week.

Section 6 Worker Rights

a. Right of Association

The constitution provides for the right of citizens to form and belong to trade unions or other associations. However, the country has virtually no labor laws, nor does it have any formal trade unions. Historically, the transient nature of the mostly foreign workforce hampered efforts to organize trade unions.

b. The Right to Organize and Bargain Collectively

The right to strike is not protected, prohibited, or limited by law. Although there were no legal impediments, collective bargaining did not take place. A tiny private sector, mostly family-run stores and restaurants, employed approximately 1 percent of salaried workers. Salaries, working hours, vacation periods, and other employment matters for government workers are nominally governed by public service regulations.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred. Although the law does not specifically mention forced or compulsory labor by children, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum age of employment at 17. The only two significant employers, the government and the phosphate industry, honored this rule. Some children under 17 worked in small, family-owned businesses.

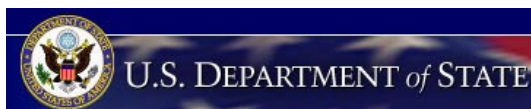
e. Acceptable Conditions of Work

The government raised wages and implemented a graduated salary system for public service officers and employees, which became effective in July. At lower ranges the salaries did not provide a decent standard of living for a worker and family.

By regulation the workweek in both the public and private sectors was 35 hours for office workers and 40 hours for manual laborers. Neither the law nor regulations stipulate a weekly rest period; however, most workers observed Saturdays and Sundays as holidays.

The government sets some health and safety standards. The phosphate industry had a history of workplace health and safety requirements and compliance, but with the decline of the industry, enforcement of these regulations was lax. During the year a gradual revival of the industry was accompanied by accusations that unfiltered dust discharge from the phosphate plant exposed workers and the surrounding communities to a significant health hazard. The government did not act to eliminate the problem, citing high costs. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment.





New Zealand

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

New Zealand is a parliamentary democracy with a population of 4.24 million. Citizens periodically choose their representatives in free and fair multiparty elections, most recently held in 2005. The Labour Party won 50 parliamentary seats and formed a minority coalition government; Helen Clark remained prime minister. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. There were disproportionate societal problems for indigenous people.

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 the government generally respected this prohibition in practice. During the year there were some complaints that individual members of the police committed abuses. The Independent Police Conduct Authority handled complaints of police abuse, ranging from use of abusive language to allegations of complicity in deaths.

In March a jury acquitted a suspended assistant police commissioner and two former police officers on charges of kidnapping and indecent assault stemming from allegations of rape by a woman in Rotorua in 1984. In 2006 the same three men were found not guilty of sexual offenses against two other Rotorua women in 1986. Prosecution of all these cases began in 2004.

The police also charged the assistant police commissioner with numerous breaches of police regulations relating to his behavior during and after the 2007 trial. In November the accused commissioner resigned from the police force, one day before the first scheduled hearing on those charges.

In a related case, authorities charged a former police chief inspector, responsible for investigating the alleged Rotorua assaults, with attempting to obstruct, prevent, or defeat the course of justice in his handling of the sex charges. In August a court found him guilty and in October sentenced him to four and one-half years' imprisonment.

Prison and Detention Center Conditions

Prison conditions generally met international standards, and the government permitted visits by human rights observers.

In the 12-month period ending June 30, there were six serious assaults on staff by inmates and 27 assaults of inmates by other inmates.

Due to increased prison capacity, overcrowding was no longer a problem. During the year the government opened two new prisons, in Spring Hill and Otago, with a capacity of 600 and 335 prisoners, respectively.

Juvenile detainees (under 17 years old) come under the jurisdiction of Child, Youth, and Family Services rather than the police.

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 commissioner, appointed by the governor general, is the chief executive of the police force and reports to the minister of police. Allegations of corruption or impunity are referred to the Independent Police Conduct Authority. Changes to the law during the year also allowed the authority to open investigations on its own initiative.

The police generally did not have problems with corruption and impunity. However, in a report issued on April 3, a government-initiated commission of inquiry established in 2004 found that police management lacked the policies, procedures, and practices necessary to deal effectively with incidents of sexual misconduct by officers. The inquiry was prompted by publication of allegations suggesting that police officers might have deliberately undermined or mishandled investigations into complaints of sexual assault made against other officers. Soon after the report's release, the government proposed new police regulations, which were under consideration by Parliament at year's end.

Arrest and Detention

Police may arrest a suspect without a warrant if they have reasonable cause. Police also may request a warrant from a district court judge. Police may enter premises without a warrant to arrest a person if they reasonably suspect the person of committing a crime on the premises or have found the person committing an offense and are in pursuit. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest.

After a suspect has been arrested and charged, police have the power to release the person on bail until the first court appearance. That bail comes to an end at the first court appearance and is distinct from court bail. Court bail is granted unless there is a significant risk that the suspect would flee, tamper with witnesses or evidence, or commit a crime while on bail. Police bail is not normally granted for more serious offenses such as serious assault or burglary. Family members were granted prompt access to detainees. Detainees were allowed prompt access to a lawyer of their choice, and, if indigent, to a lawyer provided by the government.

e. Denial of Fair Public Trial The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy the rights found in other common-law jurisdictions, including a presumption of innocence, a right to a jury trial, a right of appeal, and the right to counsel, to question witnesses, and to access government-held evidence. The law extends these rights to all citizens. A lawyer is provided at public expense if the defendant cannot afford counsel.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, which includes access to the Human Rights Review Tribunal and other courts to bring lawsuits seeking damages and other remedies for alleged human rights abuses. There are also administrative remedies for alleged wrongs through the Human Rights Commission (HRC) and the Office of Human Rights Proceedings.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice. Section 2 Respect for Civil Liberties, Including: a. Freedom of Speech and Press The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available and widely used by citizens.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

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

Relations among religions generally were amicable, although there were isolated instances of societal abuses or discrimination based on religious belief or practice.

The Jewish community numbered approximately 10,000 persons. In October vandals spray-painted anti-Semitic graffiti in a Wellington Jewish cemetery. At year's end no one had been charged in the incident, and the investigation remained open. Investigations also remained open in the August 2006 vandalizing of a synagogue in Christchurch and a mosque in Wellington, respectively.

The government-funded HRC actively promoted religious tolerance.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

There is no statutory authority for imposing a sentence of exile, and the government did not practice forced exile.

Protection of Refugees

The laws 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 established a system for providing protection to refugees. The government granted refugee status or asylum. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. The government also provided temporary protection to individuals who may not qualify under the definition of the 1951 convention and the 1967 protocol, until their status was determined and action taken. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

On September 3, Ali Reza Panah, an Iranian citizen who applied for asylum as a Muslim convert to Christianity, was placed in the care of the Anglican Church following a 53-day hunger strike. The Department of Labour and the independent Refugee Status Appeals Authority both rejected Panah's claims to refugee status, and the authorities detained him for more than 18 months while they attempted to deport him. However, Iran refused to accept Panah until he applied for an Iranian passport, and he refused to do so, claiming he would be persecuted if returned to Iran. The government offered to facilitate Panah's transfer to a third country, which he first accepted but then rejected. While in the care of the Anglican Church, Panah was not permitted to work and was not eligible for state subsidies; he remained in the church's care at year's end.

On September 13, the Security Intelligence Service (SIS) withdrew the security risk certificate it had placed on asylum seeker and former member of the Algerian parliament Ahmed Zaoui in 2003. Citing possession of new intelligence, the SIS determined that Zaoui no longer presented a security risk to New Zealand. The SIS maintained that its original decision to apply the security risk certificate was justified on the basis of the information it held at the time.

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

Parliamentarians are elected under a mixed-member, proportional representation system. In the most recent general elections, held in 2005, the Labour Party won 50 of 121 parliamentary seats and formed a minority government with the Progressive Party (one seat), the New Zealand First Party (seven seats) and the United Future Party (three seats). The Labour Party also had a cooperation agreement with the Green Party (six seats). Three other parties were represented in Parliament: the National Party (48 seats), the Maori Party (four seats), and the ACT party (two seats). During the year two members of Parliament (MPs), one from the Labour Party and the other from the United Future Party, left their respective parties to become independent MPs. Although this reduced the Labour Party's parliamentary majority, it continued to govern comfortably. Executive authority is vested in a 20-member cabinet led by the prime minister.

Women participated fully in political life. There were 39 women in the 121-seat Parliament. There were eight women (including the prime minister) on the executive council, which comprises 28 ministers (20 within the cabinet and eight outside the cabinet). The speaker of the house and the chief justice of the Supreme Court were women. There were three women in the 25-seat Parliament of the Associated State of the Cook Islands and three women in the 20-seat Parliament of the Associated State of Niue.

Seven seats in Parliament are reserved for persons of Maori ancestry. The number of Maori seats is adjusted every five years, based on the number of persons who register to vote on the Maori electoral roll.

As of July 30, there were 20 Maori members, four members of Pacific Island descent, and two members of Asian descent in Parliament. The cabinet included at least three members of Maori ancestry.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year. Efforts to combat corruption and prosecution of corruption cases are handled through the Serious Fraud Office and the Ministry of Justice. In 2007 the government initiated prosecution of one MP for bribery.

The law requires MPs, including all ministers, to submit an annual report of their financial interests, which is then disclosed publicly. Career civil servants are not subject to this requirement but are subject to ethics standards established by the State Services Commission.

The law provides for public access to government information, to be provided within 20 working days of a request. Information must be made available unless a good reason, such as concern for national security, exists for not doing so. The requester must be provided with an estimate of any fees before the information is 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 very cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, sex, disability, and national or ethnic origin, and the government actively enforced it.

Women

Violence against women affected all socioeconomic groups. The law criminalizes rape, including spousal rape; the maximum penalty is 20 years' imprisonment. In the 12-month period ending June 30, police recorded 2,374 "sexual attacks" and resolved 61.3 percent of those cases.

From July 2006 through June 2007, there were four prosecutions for spousal rape, with one conviction. During the same period there were three prosecutions for unlawful sexual connection with a spouse, resulting in one conviction. Rape crisis groups existed throughout the country and included centers focusing specifically on Maori and Pacific Islanders.

Assault by a male on a female is a non-sexual crime punishable by up to two years' imprisonment (a penalty double that for a male on male or a female on male assault, which carry a one-year maximum penalty). In the 12-month period ending June 30, 5,372 persons were prosecuted for assault by a male on a female. Of these prosecutions, 50 percent involved Maori men, 30 percent men of European ancestry, and 14 percent Pacific Islanders. Although only 15 percent of the total population claimed Maori ancestry, during the 12-month period ending June 30, 42 percent of the 28,845 women and children who used the National Collective of Independent Women's Refuges were Maori; 43 percent were of European ancestry, and 8 percent were Pacific Islanders.

The government's Task Force for Action on Violence within Families coordinates a variety of government initiatives to eliminate family violence, including its Te Rito program, a national strategy to address all forms and degrees of domestic violence. Police were responsive when domestic violence was reported. The government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services.

In July the government established the Task Force for Action on Sexual Violence, including members from both the government and NGOs, to provide leadership and coordination of efforts to address sexual violence and to develop recommendations by 2009 on how to better prevent and respond to such violence.

The 2003 Prostitution Reform Act (PRA) decriminalized prostitution and created a certification regime for brothel operators. The act prohibits persons under age 18 from working in the sex industry and gives prostitutes the same workplace protections as other industries. The law also eliminates the defense (by clients, brothel operators, and pimps, for example) of claiming ignorance that a person engaged in commercial sexual activity was under age 18. The act extends culpability to any person who receives financial gain from such activity involving an underage person. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts.

The PRA also established a statutory Prostitution Law Review Committee (PLRC) to review the act within three to five years of its enactment (by June 2008), including an assessment of the act's impact on the number of persons engaged in prostitution, and the nature and adequacy of assistance available to persons to avoid or leave the commercial sex industry. The government also agreed with the United Future Party to review the act to "address problems associated with street soliciting, under age involvement, and local authority control over brothel zoning."

The law prohibits sexual harassment. Sexual harassment in violation of the Employment Relations Act or the Human Rights Act carries civil penalties. However, sexual contact induced by certain threats may also fall under the criminal code, with a maximum 14-year prison sentence. The HRC published fact sheets on sexual harassment and made sexual harassment prevention training available to schools, businesses, and government departments on a regular basis.

The Ministry of Women's Affairs addresses problems of discrimination and gender equality, and there is a minister of women's affairs in the cabinet. While the law

prohibits discrimination in employment and in rates of pay for equal or similar work, the government acknowledged that a gender earnings gap persisted in practice. A unit dedicated to this issue within the Department of Labour administers a \$750,000 (one million NZ dollars) annual fund supporting employer and union initiatives to promote pay and employment equity. According to June 2006 figures, the most recent available, women earned 88 percent of the average hourly earnings for men.

ChildrenThe law provides specific safeguards for children's rights and protection. The government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care.

The law provides for compulsory, free, and universal education through age 16, and the government effectively enforced the law. As of July 2006, on average 99 percent of children ages six to 16 were enrolled in primary or secondary education. There was equal access to postsecondary education for boys and girls, with nearly 49 percent of girls and 42 percent of boys age 18 to 19 enrolled in higher-level studies.

The government provided free health care to all children under age five, and boys and girls had equal access.

Child abuse continued to be of concern to the government. The government promoted information sharing between the courts and health and child protection agencies to identify children at risk of abuse. From July 2006 through June 2007, there were 22,287 applications to Family Court for guardianship and parenting orders under the Guardianship Act or Care of Children Act and 4,347 applications for protection orders under the Domestic Violence Act. During the same period, there were 667 prosecutions and 312 convictions involving assaults on children. The Office of the Commissioner for Children played a key role in monitoring violence and abuse against children.

Commercial sexual exploitation of children remained a problem.

The Department of Internal Affairs' Censorship Compliance Unit actively policed images of child sex abuse on the Internet and prosecuted offenders. The government maintains extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad.

Trafficking in Persons

The law prohibits trafficking in persons. The Department of Labour followed up on all allegations of trafficking but did not discover evidence sufficient for prosecution. No new confirmed cases of internationally trafficked persons have been brought to the attention of the authorities since 2001, although there was evidence that some women from Asia, and more recently the Czech Republic and Brazil, were working illegally in the country as prostitutes. Although prostitution has been decriminalized, it remains illegal for nonresidents to work in the commercial sex industry.

Commercial sexual exploitation of children was a problem. An informal PLRC study completed in 2004 estimated that approximately 200 young persons under age 18 were working as prostitutes.

The government has signed the relevant international instruments dealing with trafficking and has adopted tough domestic legislation to criminalize trafficking, with penalties of up to 20 years in prison and fines of up to \$375,000 (NZ\$500,000). Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison. Under the PRA, it is illegal to use a person under 18 years of age in prostitution. Under the criminal law, it is also illegal to have sexual contact with a child under 16 years of age, regardless of whether the accused believed the child to be 16 years or older. During the 12-month period ending June 30, authorities prosecuted four persons on seven prostitution-related charges involving commercial exploitation of persons under age 18. These cases remained pending at year's end. The case of a man charged in Christchurch with recruiting a 14-year-old girl and a 16-year-old girl to provide sexual services in his brothel in 2005 also remained pending.

The Department of Labour has primary responsibility for coordinating government efforts to combat trafficking in persons. Other agencies involved in antitrafficking efforts included the police, the HRC, the Ministry of Foreign Affairs and Trade, the Ministry of Justice, the Customs Service, the Ministry of Women's Affairs, the Department of the Prime Minister and Cabinet, and the Ministry of Health.

During the year the government continued work on its national plan of action against trafficking in persons, begun in 2005, addressing the areas of prevention, protection, prosecution, and victim reintegration. There was strong coordination on antitrafficking matters between the government and NGOs, and an extensive infrastructure of government and NGO assistance programs was available to victims of trafficking, including short-term sanctuary, witness protection, access to medical services, and safe repatriation.

The government also had a national plan of action against the commercial exploitation of children developed in concert with NGOs, and it operated programs to reintegrate children out of prostitution through vocational training and educational opportunities. The government also worked to address trafficking in children by providing funding for NGO outreach programs in Auckland and Christchurch that provided accommodations and other support for young persons involved in or at risk of involvement in prostitution.

Shakti Community Council, Incorporated, an NGO with a strong interest in combating trafficking, reported abuses resulting from the immigration of Indian women for forced marriages and provided services to abused women through four refuges located in three cities: Auckland, Christchurch, and Tauranga.

Persons with DisabilitiesThe law prohibits discrimination against persons with disabilities in employment, education, access to places and facilities, and the provision of goods, services, and accommodation. Compliance with access laws varied. The government is prohibited from discrimination on the basis of physical or mental disability, unless such discrimination can be "demonstrably justified." Of the 5,796 inquiries and complaints that the HRC received during the 12-month period ending June 30, there were more complaints of discrimination based on disability than for any other type of discrimination (29.6 percent of all inquiries and complaints). In its five-year action plan for human rights released in 2005, the HRC noted that persons with disabilities faced major barriers in obtaining and retaining employment and earning adequate income.

The government supported equal access for persons with disabilities to polling facilities, as well as their general participation in civic affairs.

The government's Office for Disability Issues worked to protect and promote the rights of persons with disabilities. In addition, during the year both the HRC and the Mental Health Commission continued to address mental health issues in their antidiscrimination efforts.

In 2006 New Zealand Sign Language for the hearing impaired joined Maori and English as the country's official languages.

National/Racial/Ethnic Minorities

Pacific Islanders, who made up 7 percent of the population, experienced societal discrimination and, as of November 25, accounted for 12 percent of prison inmates and 9 percent of those serving community sentences. In 2005 the Department of Corrections launched its Pacific Strategy 2005-8, designed to reduce the crime rate and recidivism among Pacific Islanders through the use of culturally based techniques. The Ministries of Justice and Pacific Island Affairs also had a program to identify gaps in delivery of government services to Pacific Islanders and to involve agencies and communities in developing proposals to reduce crime among Pacific Islanders.

Asians, who as of June 30 made up 10 percent of the population, also reported discrimination. However, as of November 25, Asians constituted only 2.6 percent of the prison population and 1.2 percent of those serving community sentences.

Indigenous People

Approximately 15 percent of the population claimed at least one ancestor from the country's indigenous Maori minority. The law prohibits discrimination against the indigenous population; however, there was a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households.

As of November 25, Maori constituted approximately 50 percent of the prison population and 45 percent of persons serving community sentences. The government had an action plan to reduce Maori recidivism and overrepresentation in the criminal justice system, including the establishment of Maori focus units and special cultural assessments of Maori offenders. The Department of Corrections established a Maori Advisory Group and a Pacific Advisory Group to guide department policy and operational decisions.

Government policy recognized a special role for indigenous people and their traditional values and customs, including cultural and environmental issues that affected commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people. A special tribunal established in 1975 continued to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

A 2004 law regulates ownership of the foreshore (the land between high and low tide) and the seabed. The law grants ownership of the foreshore and seabed to the state and provides for universal public access. It also established a mechanism to accommodate customary indigenous rights of land use, including preservation of existing fishing rights. This legislation was the focus of protests by Maori groups asserting customary title to the land and by non-Maori groups opposing such claims.

On August 15, the United Nations Committee on the Elimination of Racial Discrimination (CERD) reported on racial discrimination in the country. The report criticized the government's foreshore and seabed legislation and its handling of Maori land claims. The report also expressed concern that the Bill of Rights Act and the Treaty of Waitangi, under which many Maori rights are spelled out, do not enjoy protected status within the country's parliamentary system. Therefore, according to CERD, enactment of legislation contrary to the act and the treaty is possible. The report included 16 recommendations for changes relating to Maori rights or the rights of other ethnic groups that the government was considering at year's end but had not endorsed.

On October 15, a total of approximately 300 police officers conducted coordinated raids in multiple locations nationwide and arrested 17 persons, some of whom were Maori (including a well-known Maori activist), on various weapons charges, including unlawful possession of rifles. The raids reportedly stemmed from an investigation begun in 2005 after hunters told authorities they had seen a group of men training with firearms in a camp in a remote mountain area. Maori MPs and others in the Maori community strongly criticized police conduct of the raids as excessive and heavy-handed. In November the *Dominion Post* newspaper published excerpts from police documents indicating that some of those arrested had discussed the killing of government officials and attacks on public facilities. The accused persons denied planning to harm anyone. By November the charges against one defendant were dropped and the remaining defendants had been released on bail. Their cases were pending at year's end.

Other Societal Abuses and Discrimination

The law prohibits violence or discrimination against persons based on sexual orientation and against persons with HIV/AIDS. During the 12-month period ending June 30, the HRC received 52 discrimination complaints relating to sexual orientation (3.1 percent of all complaints), but it did not keep records as to whether violence was involved. The Ministry of Justice received no reports of societal violence or discrimination based on sexual orientation or against persons with HIV/AIDS, and there were no criminal prosecutions relating to these crimes.

Section 6 Worker Rights

a. The Right of Association

The law provides workers the right to form and join organizations of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Nearly all unionized workers were members of the Council of Trade Unions, a federation that included unions representing various trades and locations. A few small, independent labor unions also existed. Unions represented approximately 18 percent of all wage earners.

Labor organization was rudimentary in the territory of Tokelau (population 1,400) and in the Associated State of Niue (population 2,200). In the more developed Associated State of the Cook Islands (population 21,000), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of national legislation. b. The Right to Organize and Bargain CollectivelyThe law provides for the right of workers to organize and contract collectively, and workers exercised this right in practice.

The Employment Relations Act governs industrial relations and promotes collective bargaining. In order to bargain collectively, unions must be registered, be governed by democratic rules, be independent, and have at least 15 members. Unions may not bargain collectively on social or political issues.

The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. Sworn police officers (which includes all uniformed and plainclothes police but excludes clerical and support staff) are barred from striking or taking any form of industrial action. However, police have freedom of association and the right to organize and bargain collectively. Disputes that cannot be settled by negotiation between the police association and management are subject to compulsory, final-offer arbitration. Strikes by providers of "key services" are subject to certain procedural requirements, including mandatory notice of three to 14 days, depending on the service involved. The Department of Labour offers mediation in such cases, and the Employment Court is empowered to resolve matters relating to such disputes.

During the nine-month period ending March 31, 40 work stoppages ended, and none were ongoing.

There were no special laws or exemptions from regular labor laws in export processing zones.

c. Prohibition of Forced or Compulsory LaborThe law prohibits forced or compulsory labor, including by children, and the government generally enforced these provisions effectively; however, there were reports of commercial sexual exploitation of children.

d. Prohibition of Child Labor and Minimum Age for Employment

Department of Labour inspectors effectively enforced a ban on the employment of children under the age of 15 in manufacturing, mining, and forestry. Children under age 16 may not work between the hours of 10 p.m. and 6 a.m. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

There were reports of children involved in the commercial sex industry.

e. Acceptable Conditions of WorkOn April 1, the minimum wage increased to approximately \$8.45 (NZ\$11.25). Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage generally was adequate to provide a decent standard of living for a worker and family. The separate youth minimum wage for younger workers (ages 16 to 17) also increased, to approximately \$6.75 (NZ\$9.00). A majority of the work force earned more than the minimum wage.

A 40-hour workweek is traditional. There are legal limits regarding hours worked and premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum four-week annual paid vacation (increased from three weeks on April 1) and 11 paid public holidays. There were some reports of exploitation of foreign workers. In June eight Thai workers complained that recruitment agents and employers promised them well-paid work in the horticulture industry, but that instead they were forced to work 60- to 70-hour, seven-day weeks in vineyards, often at less than the minimum legal wage. The Department of Labour's investigation of that complaint continued at year's end.

Extensive laws and regulations govern health and safety issues. Employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others.

Workers have the legal right to strike over health and safety issues, as well as the right to withdraw from a dangerous work situation without jeopardy to continued employment. Department of Labour inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The Department of Labour normally investigated reports of unsafe or unhealthy working conditions within 24 hours of notification.



Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Palau

Country Reports on Human Rights Practices - [2007](#)
Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Palau is a constitutional republic with a population of approximately 20,900. The country is organized politically into 16 states. The president, the vice president, and members of the legislature (the Olbiil Era Kelulau) are elected for four-year terms. There were no political parties. In generally free and fair elections held in November 2004 President Tommy E. Remengesau, Jr. was reelected. The civilian authorities generally maintained effective control over the security forces.

The government generally respected the human rights of its citizens. Problems were reported in a few areas, including government corruption, domestic violence, trafficking in persons, and discrimination against, and some abuse of, 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

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

Conditions in the country's sole prison, although primitive, generally met international standards. Overcrowding remained a problem. The few female prisoners were held in separate cells but were permitted to mingle with male inmates during daylight hours.

No visits by independent human rights observers were requested or made 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 civilian authorities maintained effective control over the 160-officer National Police and marine police in Koror and Peleliu states. Corruption and impunity were not major problems.

Arrest and Detention

The law requires warrants for arrests. Warrants are prepared by the Office of the Attorney General and signed by a judge. The law provides for a prompt judicial determination of the legality of detention, and this was observed in practice. Detainees were informed promptly of the charges against them and had prompt access to family members and lawyers. If a detainee could not afford a lawyer, the public defender or a court-appointed lawyer was available. There was a functioning system of bail.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

The judiciary consists of the Supreme Court, the Land Court, and the Court of Common Pleas. The constitution also provides for a national court, but other courts absorbed its caseload and it was inactive.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The government has an independent special prosecutor and an independent public defender system.

Trials are public and are conducted by judges; there are no juries. Defendants enjoy a presumption of innocence and a right of appeal. They can question witnesses, present evidence on their own behalf, and access government-held evidence in their cases.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters for lawsuits involving allegations of human rights violations. Remedies were available and enforced.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

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 government requires religious organizations to obtain charters as nonprofit organizations from the Office of the Attorney General. This process was not protracted, and the government did not deny charters to any groups during the year.

Societal Abuses and Discrimination

There were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts. There was no known Jewish community.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights 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 provided some protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. The government did not grant refugee status or asylum.

There were no cases during the year involving cooperation 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 the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

The national congress consists of the nine-member Senate and the 16-member House of Delegates. Members of the congress are elected by popular vote every four years: senators on a national basis and delegates on a state basis. There is a limit of three consecutive terms for both houses. The president and vice president also are elected every four years, and there is no limit on the number of terms they may serve, except that the president may serve only two consecutive terms. Although there have been political parties in the past, there were none during the year. In November 2004 President Tommy E. Remengesau, Jr., was reelected. The Council of Chiefs, consisting of the highest traditional chiefs from each state, advises the president on traditional laws and customs.

There are no legal impediments to women's participation in government and politics. There were no women in the 25-member national legislature. During the year a female candidate ran in the election to fill a vacant senate seat, but she was not elected. Women constituted 14 percent of state legislators. Three women served as state governors during the year. Two of the three associate justices of the Supreme Court were women.

There were two members of minorities in the House of Delegates.

Government Corruption and Transparency

Government corruption was a problem, which the government took some steps to address. Public officials are required to file annual financial disclosure statements with the Ethics Commission.

In February the special prosecutor charged a Koror state legislator with 92 criminal counts including 43 counts of grand larceny and 43 counts of false pretense for diverting \$22,000 (the U.S. dollar is the national currency) of rent paid to lease a state building to his personal use between 2001 and 2004. At year's end the case was pending in court.

In March an officer of the Bureau of Revenue, Customs, and Taxation was accused of accepting \$1,300 in bribes for not accessing import tax on cigarettes. He was convicted and sentenced to 75 days in prison and a fine of \$1,300.

In April the former governor of Airai State was ordered to pay \$5,542 for misuse of public funds.

In July the Office of the Special Prosecutor charged the house speaker with misuse of travel funds. During a trip abroad, the then-delegate became ill and requested the then-house speaker to authorize payment for his medical expenses of \$3,790. At year's end the case remained pending in court. The then speaker was also charged but settled out of court, agreeing to pay \$3,790 restitution and \$3,790 civil penalty.

In August the Special Prosecutor filed charges against five senators and 12 delegates for abuse of per diem; the Senate and the House of Delegates reached settlements with the Office of the Special Prosecutor.

Also in August the Special Prosecutor filed charges against 23 former and current legislators of Kayangel State for misuse of government funds. These cases were pending.

The law provides for the right of citizens and noncitizens to examine government documents and observe official deliberations of any government agency, and the government generally respected this provision in practice.

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

A number of domestic and international groups concerned with human rights generally operated without government restriction. Government officials were cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of sex, race, place of origin, language, social status, or clan affiliation, and the government generally observed these provisions.

Women

Rape, including spousal rape, is a crime punishable by a maximum of 25 years' imprisonment. There were two cases of rape during the year. One of the victims was a minor.

The Ministry of Health's Office of Victims of Crimes reported 36 cases of domestic violence involving women for fiscal year 2007. (Alcohol and drug abuse contributed to this problem.) According to the Office of the Attorney General, the Ministry of Health, and women's groups, reported cases of domestic violence represented a relatively small percentage of cases of actual abuse. Assault is a criminal offense, punishable by up to six months in jail or a fine of up to \$100, and the police responded when such cases were reported; women, however, were reluctant to press charges against their spouses. The government conducted public education efforts to combat domestic violence.

Prostitution is illegal, but it was a problem. There were reports of women being trafficked to the country from China and the Philippines to work in karaoke bars as hostesses and prostitutes.

Sex tourism is illegal and was not a problem.

Sexual harassment is illegal and did not appear to be a major problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. There were no reported instances of unequal pay for equal work or sex-related job discrimination.

In March local women's groups organized their 14th annual women's conference. The conference focused on women's and children's issues, including health, education, drug abuse, prostitution, and traditional customs and values. Government officials, including the president, vice president, ministers, and traditional chiefs, participated.

Children

The government provided a well-funded system of public education for children. There was no difference in the treatment of girls and boys in educational opportunities or in the availability of scholarships to attend postsecondary education abroad. Education was free, universal, and mandatory for children from age six to 17. The rate of students who completed elementary school was 95.5 percent and the high school graduation rate was 98.6 percent.

Girls and boys received equal treatment in health care services.

The Office of Victims of Crimes reported the following cases involving minors 18 years and younger for fiscal year 2007: eight cases of physical abuse, one case of emotional abuse, and five cases of neglect. During the same period there were 12 cases of sexual abuse involving minors 16 years and younger. The Office of the Attorney General prosecuted such cases successfully. In April a woman and her live-in boyfriend were convicted of molesting her 10-year-old niece. They were sentenced to four year and three year prison terms respectively. In June a man was charged for repeatedly raping his 15-year-old stepdaughter. The case was pending in court.

Children's rights generally were respected, although there were isolated reports of child neglect. Commercial sexual exploitation of children was not accepted within society and was not practiced.

Trafficking in Persons

An antitrafficking law prohibits such practices, with penalties of up to 10 years' imprisonment and a fine of up to \$50,000 for exploiting or otherwise profiting from a trafficked person; up to 25 years' imprisonment and a fine of up to \$250,000 for trafficking involving force, fraud, or deception; and up to 50 years' imprisonment and a fine of up to \$500,000 for trafficking involving a child "by any means for the purpose of exploitation." There are also laws against slavery, fraud, and prostitution. There were reports of women and some men being trafficked to the country from China and the Philippines to work in karaoke bars as hostesses and prostitutes, in private homes as domestics, and on construction sites.

In May a Chinese couple and two Filipinas along with their Palauan businesswoman partner were convicted of human trafficking and advancing prostitution. The group operated a restaurant/karaoke club and employed 10 waitresses--seven Filipinas and three Chinese. The waitresses claimed they were forced to have sex with customers. If they refused up to \$100 was deducted from their \$250 monthly salary. The Chinese couple were each sentenced to 20 years' imprisonment and fined \$50,000, they were also ordered to pay \$18,000 in restitution and airfare to repatriate the victims. One Filipina was sentenced to three years in prison and fined \$5,000; the other was sentenced to one year in prison and fined \$5,000. All are subject to deportation after serving a third of their terms and paying all fines. The Palauan businesswoman partner, in a plea agreement, had her 15 year prison term dismissed and \$100,000 fine reduced to \$20,000. The woman was also ordered to pay \$15,000 in restitution.

The divisions of Immigration and Labor and the Office of the Attorney General are responsible for combating trafficking; however, the government lacked the resources and expertise to address the problem in practice. There was no formal assistance available for victims, and victims normally were detained, jailed, or deported if they committed a crime such as prostitution. No nongovernmental organizations specifically addressed trafficking.

Persons with Disabilities

The Disabled Persons' Antidiscrimination Act and the Programs and Services for Handicapped Children Act cover both persons with mental disabilities and persons with physical disabilities, and the government enforced the provisions of these acts. No discrimination was reported against persons with disabilities in employment, education, access to health care, or the provision of other state services. The government provides a monthly stipend of \$50 for persons with disabilities. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. The public schools had special education programs to address problems encountered by persons with disabilities.

The government agency Ngak Mak Tang ("Everyone Matters") has responsibility for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities

The law prohibits noncitizens from purchasing land or obtaining citizenship. A majority of citizens viewed negatively the rapid increase over the past several years in foreign workers, who, according to estimates during the year, constituted more than 30 percent of the population and approximately 45 percent of the work force. Foreign residents were subjected to discrimination and were targets of petty, and sometimes violent, crimes, as well as other random acts against person and property. Foreign residents made credible complaints that the authorities did not pursue or prosecute crimes committed against noncitizens with the same vigor as crimes against citizens.

Noncitizens are officially excluded from the minimum wage law. In addition some foreign nationals experienced discrimination in employment, pay, housing, education, and access to social services, although the law prohibits such discrimination. There were anecdotal reports of abuse of foreign workers by employers.

Other Societal Abuses and Discrimination

There were no reports of cases of violence or discrimination based on sexual orientation or against person with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right of all persons to assemble peacefully and to associate with others for any lawful purpose, including the right to join and organize labor unions. However, there were no active labor unions or other employee organizations; the majority of businesses were small-scale, family-run enterprises employing relatives and friends.

b. The Right to Organize and Bargain Collectively

There is no law concerning trade union organization or collective bargaining. Market forces determine wages in the cash economy.

The law does not provide for the right to strike, and the government has not addressed this issue.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits slavery or involuntary servitude except to punish crime. Although the law does not prohibit specifically forced or compulsory labor by children, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law states that the government shall protect children from exploitation. There is no minimum age for employment. Children typically were not employed in the wage economy, but some assisted their families with fishing, agriculture, and small-scale family enterprises.

By regulation no foreigner under age 21 may be admitted into the country for employment purposes, and the government generally enforced this regulation effectively.

e. Acceptable Conditions of Work

The law sets the minimum wage at \$2.50 per hour, but foreign workers are not included under the minimum wage law. It generally was assumed that legislators specifically exempted foreign contract workers from the minimum wage law to ensure a continued supply of low-cost labor in industries that the legislators often control. The national minimum wage provided a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers (usually foreigners) for commercial firms were paid only \$1.50 to \$2.00 per hour; wages for domestic helpers employed in private households were lower still. In addition to their wages foreign workers usually were provided, basic accommodations and food gratis or at nominal cost. The country continued to attract foreign workers from the Philippines, China, and Bangladesh. (Although the law prohibits importation of laborers from Bangladesh, this prohibition was not strictly enforced.) During the year there were more than 6,800 foreign nationals with work permits in the country; of these, 65 percent were from the Philippines, 15 percent from mainland China, and 8 percent from Bangladesh.

There is no legislation concerning maximum hours of work. Most businesses closed on either Saturday or Sunday. The Division of Labor has established some

regulations regarding conditions of employment for nonresident workers. The division may inspect the conditions of the workplace and employer-provided housing on the specific complaint of the employees, but enforcement was sporadic. Working conditions varied in practice.

Although there are occupational and safety standards, the law does not specifically provide workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no law protects workers who file complaints about such conditions. Anecdotal evidence suggested that noncitizens would likely lose their employment if they removed themselves from situations that endangered health or safety. Since foreign workers generally are not permitted to change employers and must depart the country if their contract ends for any reason, noncitizens were reticent about reporting abuses. There were no reports to the government of violations of occupational health or safety standards during the year.

Some foreign workers, particularly domestic helpers and unskilled laborers, reportedly were forced to accept jobs different from those for which they were recruited. Employers sometimes verbally threatened or withheld passports and return tickets of foreign workers desiring to leave unfavorable work situations.

Reports of mistreatment of foreign workers by their employers continued during the year. The foreign workers most likely to be abused were those who worked under contracts as domestic helpers, farmers, waitresses, beauticians, hostesses in karaoke bars and massage parlors, construction workers, and other semiskilled workers, the majority of whom were from the Philippines, China, and Bangladesh. The most commonly reported abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, and substandard food and housing. There have, at times, been complaints of physical abuse. In a number of instances local authorities took corrective action when alerted by social service and religious organizations.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Papua New Guinea

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Papua New Guinea is a constitutional federal multiparty parliamentary democracy with a population of approximately 6.2 million and more than 800 indigenous tribes. The most recent general elections were held June 30 through July 10; there were localized instances of voter intimidation, election-related violence, and influence peddling. A coalition government, led by Prime Minister Michael Somare, was formed following the election. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently.

The government generally respected the human rights of its citizens, but there were serious problems in some areas. Human rights abuses included arbitrary or unlawful killings by police; police abuse of detainees, including children; poor prison conditions; lengthy pretrial detention; infringement of citizens' privacy rights; government corruption; violence and discrimination against women and children; discrimination against persons with disabilities; and intertribal violence.

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 killed a number of persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. However, public concern about police violence continued. On March 21, police reportedly shot three persons suspected of armed robbery, killing one. On May 4, police shot and killed Jeffrey Kui, a fugitive in West Taraka who had escaped from custody; his relatives alleged police shot him repeatedly after he had already surrendered. On May 25, police reportedly shot three individuals suspected of car theft, killing two. The police officers involved in the March 21 and May 25 killings were suspended pending investigations, but no investigation results had been released by year's end. A coroner's court was reviewing the Kui killing at year's end.

There were no further developments in the investigations into the alleged November 2006 police killing of a person in an exchange of gunfire at a Port Moresby hotel and a 2005 incident at the Porgera primary school in Enga Province in which police killed three persons and reportedly injured at least 20 others.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices; however, individual police members frequently beat and otherwise abused suspects during arrests, interrogations, and in pretrial detention. There were numerous press accounts of such abuses, particularly against young detainees. On August 23, an auxiliary police officer in Rabaul allegedly shot and wounded a high school student. Also on August 23, police reportedly beat a soldier in Port Moresby.

At year's end no action had been taken against correction officers at Buimo Prison who beat and sexually abused young male detainees in January 2006, and the officers continued to work at the prison.

Prison and Detention Center Conditions

Prison conditions were poor, and the prison system suffered from serious underfunding. During most of the year, three of the country's 20 prisons remained closed because of life-threatening conditions. Neither prisons nor police detention centers had medical care facilities. In some police holding cells, detainees lacked bedding and sufficient food and water. Overcrowding in prisons and police cells was a serious problem. In rural areas infrequent court sessions and bail restrictions for certain crimes exacerbated overcrowding. Prison escapes were common, even from high-security installations.

Male and female inmates usually were held separately, but some rural prisons lacked separate facilities, and there were reports of assaults on female prisoners. There were no separate facilities for juvenile offenders; however, in some prisons juveniles were provided with separate sleeping quarters. Foreign government donor agencies funded the operations of three new juvenile reception centers located in Port Moresby, Lae, and Goroka. Human Rights Watch (HRW) reported that juveniles routinely were held with adults in police detention cells, where in many cases they were assaulted by older detainees. Police denied juvenile court officers access to police cells. Pretrial detainees were not separated from convicted prisoners.

The government permitted prison visits by human rights observers.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

A commissioner who reports to the minister for internal security heads the country's national police force, the Royal Papua New Guinea Constabulary. Internal divisions related to clan rivalries and a serious lack of resources negatively impacted police effectiveness throughout the year. Police corruption and impunity were serious problems. During the year some police officials were suspended for involvement in corruption or other criminal activity. On March 28, a group of police officers allegedly assaulted the director of police prosecutions in Port Moresby; however, as of year's end, no action was taken against the officers involved.

Police shootings are investigated by the police department's Internal Affairs Office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police may challenge the coroner's finding in the National Court, with

the assistance of the Public Solicitor's Office. Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court.

Although the government continued to negotiate with Australia on implementation of a scaled-down version of the former Enhanced Cooperation Program, under which Australian federal police officers would work alongside the constabulary to improve police practices, no agreement was reached during the year.

Arrest and Detention

Under the law, to make an arrest police must have reason to believe that a crime was committed, is in the course of being committed, or will be committed. A warrant is not required, and police made the majority of arrests without one. Citizens may make arrests under the same standards as the police, but this was rare in practice. Police, prosecutors, and citizens may apply to a court for a warrant; however, police normally did so only if they believed it would assist them in carrying out an arrest.

Only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases, the police or magistrates may grant bail. Arrested suspects have the right to legal counsel, to be informed of the charges against them, and to have their arrests subjected to judicial review; however, the government did not always respect these rights. Detainees had access to counsel, and family members had access to detainees. There were reported instances of politicians directing or bribing police officials to arrest or intimidate individuals seen as political enemies or as possible whistle-blowers on corruption.

Due to very limited police and judicial resources and a high crime rate, suspects often were held in pretrial detention for lengthy periods. Although pretrial detention is subject to strict judicial review through continuing pretrial consultations, the slow pace of police investigations and occasional political interference or police corruption frequently delayed cases for months. Additionally, circuit court sittings were infrequent because of a shortage of judges and travel funds. Some detainees were held in jail for more than two years because of the shortage of judges.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. The Supreme Court is the final court of appeal and has original jurisdiction on constitutional matters. The National Court hears most cases and appeals from the lower district (provincial) courts. There also are village courts headed by lay persons (generally local chiefs, known as "big-men"), who judge minor offenses under both customary and statutory law.

Trial Procedures

The legal system is based on English common law. The law provides for due process, including a public trial, and the court system generally enforced these provisions. Judges conduct trials and render verdicts; there are no juries. Defendants have the right to an attorney. The Public Solicitor's Office provides legal counsel for those accused of "serious offenses" (charges for which a sentence of two years or more is the norm) who are unable to afford counsel. Defendants and their attorneys may confront witnesses, present evidence, access government-held evidence, plead cases, and appeal convictions. The shortage of judges created delays in both the process of trials and the rendering of decisions.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. District courts could order "good behavior bonds," commonly called "protection orders," in addition to ordering that compensation be paid for violation of human rights. However, courts had difficulty enforcing judgments. Additionally, many human rights matters were handled by village courts, which were largely unregulated. Village and district courts were often hesitant to interfere directly in domestic matters. Village courts regularly ordered compensation be paid to an abused spouse's family in cases of domestic abuse rather than issue a domestic court order.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions; however, there were instances of abuse. Police raids and searches of illegal squatter settlements and the homes of suspected criminals often were marked by a high level of violence and property destruction. Police units operating in highland regions sometimes used intimidation and destruction of property to suppress tribal fighting.

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. All newspapers included a variety of editorial viewpoints and reported on controversial topics. There was no evidence of officially sanctioned government censorship; however, newspaper editors complained of intimidation tactics aimed at influencing coverage. On May 29, armed men attacked the home of a reporter for the *Post Courier* newspaper; the newspaper alleged that the attack was in retaliation for stories the paper had published about official corruption.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. In practice cost factors and lack of infrastructure limited public access to the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly; however, the government often limited this right in practice. Public demonstrations require police approval and 14 days' notice. In recent years police, asserting a fear of violence from unruly spectators, rarely gave approval. On August 10, police reportedly disapproved a protest march against formation of the new government coalition. However, various groups ignored the legal notice requirements and held meetings and rallies throughout the year. Groups also challenged the requirements, citing conflicts with the constitution. There were reports that police intimidated groups attempting to demonstrate during national conferences and events.

Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion

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

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against religious groups, including anti-Semitic acts. There was no known Jewish community in the country.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

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

Protection of Refugees

Although a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not enacted enabling legislation and has not established a system for providing protection to refugees. The government did not grant refugee status or asylum. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. In practice the government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or 1967 protocol.

During the year, with support from the UN High Commissioner for Refugees (UNHCR), the government continued to provide protection to approximately 2,700 persons residing at the East Awin refugee settlement who fled the Indonesian province of Papua (formerly Irian Jaya). Approximately 5,000 additional refugees lived in villages adjacent to the border with Indonesia.

The government cooperated with the Office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. Registered refugees residing in the East Awin refugee settlement were granted a residence permit that allowed them to travel freely within the country and, on a case-by-case basis, to travel abroad depending on the urgency of the business and a guarantee of financial support by sponsoring institutions.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. Any citizen may stand for election; members of Parliament (MPs) must be at least 25 years of age. A new limited preferential voting system requires MPs to be elected by an absolute majority vote.

Elections and Political Participation

The most recent general election was held June 30 through July 10. Of the 109 seats in Parliament, 66 changed hands. Prime Minister Michael Somare formed a coalition government following the election. Bribery, voter intimidation, and undue influence were widespread in some parts of the country during the election. The law provides that a losing candidate may dispute an election result by filing a petition with the National Court. Such petitions may question actions of the winning candidate and his supporters or allege malfeasance by the election officials. The procedure is fair but time consuming and expensive both to initiate and to defend. The National Court registered 53 election petitions that alleged illegal practices. By year's end 16 petitions were dismissed, 13 were withdrawn, one was upheld and a by-election ordered, 20 were scheduled for court hearings, and three remained to be given a hearing date.

Post-election violence was common in various parts of the country. In incidents reported, six persons were shot and killed, one was tortured and burned alive, and many others were injured. The underresourced police force focused on safeguarding key resource projects, government infrastructures, and businesses.

Many voters who claimed to have registered were turned away from the polls. Local and international observer teams reported undue influences, inconsistencies in common rolls, and instances of bloc voting, in which all the members of a tribe or clan voted for the same candidate.

There is no law limiting political participation by women, but the deeply rooted patriarchal culture impeded women's full participation in political life. There was one woman in the 109-seat Parliament. She served as minister of community development, the only cabinet position held by a woman. There was one female National Court justice and no female provincial governors.

There were six minority (non-Melanesian) MPs. Of these, two were in the cabinet, and three were provincial governors.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity.

Corruption at all levels of government was a serious problem due to weak public institutions, lack of transparency, politicization of the bureaucracy, and the use of public resources to meet traditional clan obligations.

A government minister reportedly confirmed the prevalence of corrupt practices and inappropriate deals within the Department of Foreign Affairs. Internal investigations were pending at year's end. A commission of inquiry conducted an investigation into allegations of large-scale fraudulent practices in the Finance Department but had not reported its findings by year's end. Approximately 75 percent of MPs failed to properly account for their expenditures of public funds over the past five years.

The minister for national planning, who had been referred to the public prosecutor in 2006 for misconduct, retained his parliamentary seat and was reappointed to the cabinet. At year's end the Leadership Tribunal was reviewing the case. A provincial governor who was suspended from office in September 2006, following referral by the ombudsman to the Leadership Tribunal for alleged misuse of government funds, was found guilty and fined. During the year three MPs, including a provincial governor and a former senior cabinet minister, had their cases pending before the Leadership Tribunal for alleged corruption; however, none of the three was reelected, and as of

year's end, the public prosecutor had not filed criminal charges against them.

In October the defense minister rejected the findings of a Defense Board of Inquiry report that concluded Prime Minister Somare and other high-level government officials were involved in arranging for the 2006 flight of Julian Moti, an Australian citizen wanted in Australia on child sex molestation charges, to the Solomon Islands aboard a Papua New Guinea military plane. The defense minister stated that the report was biased and that the board was not legally constituted.

Public officials are subject to financial disclosure laws as stipulated in the leadership code of conduct. The Ombudsman Commission, the Leadership Tribunal, and the Public Accounts Committee are key organizations responsible for combating government corruption.

No law provides for public access to government information. The government published frequent public notices in national newspapers and occasional reports on specific topics facing the government; however, it generally was not responsive to individual requests, including media requests, for 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 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 provides for equal protection under the law irrespective of race, tribe, place of origin, color, or sex. Despite these provisions, women often faced discrimination. Geographic and cultural diversity prevented any one tribe or clan from dominating the country, and successive governments have consistently avoided favoring any group.

Women

Violence against women, including domestic violence and gang rape, was a serious and prevalent problem. In a March media release, the UN Population Fund office stated that violence against women and girls was widespread.

Although rape, including spousal rape, is a crime punishable by imprisonment, and prison sentences were imposed on convicted assailants, few rapists were apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution made the crime difficult to combat. On August 15, a 20-year-old rape victim reportedly withdrew a case against four suspects. On August 13, the Supreme Court dismissed the appeal by former Madang provincial governor James Yali of his 2006 conviction for raping his sister-in-law. At year's end he was serving his sentence.

Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter, few victims pressed charges, and prosecutions were rare. Widespread sexual violence committed by police and their unresponsiveness to complaints of sexual or domestic violence served as barriers to reporting by both women and men. Traditional village mores, which served as deterrents against violence, were weakening and were largely absent when youths moved from their villages to larger towns or to the capital.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was customary, an increasing number of women were charged with murdering one of their husband's other wives. According to HRW, 65 percent of women in prison had been convicted for attacking or killing another woman.

Prostitution is illegal; however, the laws were not enforced, and the practice was widespread. There were no reports of sex tourism during the year. Sexual harassment is not illegal, and it was a widespread problem.

The laws have provisions for extensive rights for women dealing with family, marriage, and property disputes. Some women have achieved senior positions in business, the professions, and the civil service; however, traditional discrimination against women persisted. Many women, even in urban areas, were considered second-class citizens. Women continued to face severe inequalities in all spheres of life: social, cultural, economic, and political.

Village courts tended to impose jail terms on women found guilty of adultery while penalizing men lightly or not at all. By law a district court must endorse orders for imprisonment before the sentence is imposed, and circuit-riding National Court justices frequently annulled such village court sentences. Polygyny and the custom in many tribal cultures of paying a "bride price" tended to reinforce the view that women were property. In addition to the purchase of women as brides, women also sometimes were given as compensation to settle disputes between clans, although the courts have ruled that such settlements denied the women their constitutional rights.

According to statistics published in the 2006 UN Development Program's human development report, women continued to lag behind men in literacy and education due to discrimination; 51 percent of women were literate, compared with 63 percent of men. The Ministry of Community Development was responsible for women's issues and had considerable influence over the government's policy toward women.

Children

Independent observers generally agreed that the government did not dedicate significant resources to protecting the rights and welfare of children. Religious and secular nongovernmental organizations (NGOs) operated programs to protect and develop youth and children. In the past children were well cared for within the family and under traditional clan and village controls; however, small-scale studies indicated that this situation has changed over the last decade, especially in areas where households have become isolated from the extended family support system and depend on the cash economy for a livelihood.

Primary education was not free, compulsory, or universal. Substantial fees were charged and posed a significant barrier to children's education. According to a UN Children's Fund report (based on 2000-2005 data), the gross primary school enrollment rate was 80 percent for boys and 70 percent for girls. Many children did not progress further than primary school. Government-provided free medical care for citizens, including children, was no longer available due to budget cuts and deteriorating infrastructure, particularly in rural areas. Boys and girls had equal access to medical care, but many children did not have effective care. Many villages were geographically isolated, and malnutrition and infant mortality rates were very high.

Sexual abuse of children was believed to be frequent. On September 18, a four-year-old and a 13-year-old were allegedly raped in Madang. At year's end a police reserve officer was free on bail awaiting trial for allegedly assaulting a six-year-old girl in Lae in 2006. On September 7, a man pleaded guilty to raping a four-year-old child in 2005 in Lae and at year's end was awaiting sentencing. Incest is a crime and reportedly increased in frequency. On March 9, a man was convicted of incest and sentenced to six years' imprisonment. On September 21, a father of six received a 20-year sentence for incest. There were cases of commercial sexual exploitation of children in urban areas, including children working in bars and nightclubs. HRW documented numerous instances of police abuse of children. Some children were forced to work long hours as domestic servants in private homes, often to repay a family debt to the "host" family.

The legal age for marriage is 18 for boys and 16 for girls. There is a lower legal marriage age (16 for boys and 14 for girls) with parental and court consent. However, customary and traditional practices allow marriage of children as young as age 12, and child marriage was common in many traditional, isolated rural communities. Child brides frequently were taken as additional wives or given as brides to pay family debts and often were used as domestic servants. Child brides were particularly

vulnerable to domestic abuse.

Trafficking in Persons

The law does not prohibit all forms of trafficking in persons, although trafficking in children for sexual exploitation is a crime. There were reports of trafficking of women and girls within the country for sexual exploitation and domestic servitude. Custom requires the family of the groom to pay a "bride price" to the family of the bride. While marriages were usually consensual, women and girls were sometimes sold against their will. There were also reports of Asian women being trafficked into the country to work in the sex industry. Transactional sex was common and often involved the sexual exploitation of children.

The government investigated allegations of corruption among officials dealing with passport issuance and immigration. The allegations primarily involved the illegal issuance of residence and work permits for Chinese or South Asian nationals migrating to the country. Nevertheless, there was concern that the country may be have been used as a route for trafficking in persons to Australia.

There were no government programs to assist trafficking victims.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical and mental disabilities; however, persons with disabilities faced discrimination in education, training, and employment. Through the National Board for the Disabled, the government provided funds to a number of NGOs that provided services to persons with disabilities. The government provided free medical consultations and treatment for persons with mental disabilities, but such services were rarely available outside major cities. In several provinces, apart from the traditional clan and family system, services and health care for persons with disabilities did not exist. No legislation mandates accessibility to buildings. Most persons with disabilities did not find training or work outside the family structure.

National/Racial/Ethnic Minorities

Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement sometimes resulted in violent tribal conflict in the highland areas. In the last few years, the number of deaths resulting from such conflicts continued to rise due to the availability of modern weapons. Election results triggered tribal conflicts in parts of Enga and Chimbu provinces, and tribal fighting continued in Western Highlands Province.

Other Societal Abuses and Discrimination

Sodomy and acts of "gross indecency" between males are illegal, but there were no reports of prosecutions under this law during the year. There were no specific reports of societal violence or discrimination against homosexuals, but homosexuals were vulnerable to societal stigmatization.

There were no reports of government discrimination against persons with HIV/AIDS; however, there was a strong societal stigma attached to HIV/AIDS infection that prevented some individuals from seeking HIV/AIDS related services, and there were reports that companies have dismissed HIV-positive employees after learning of their condition.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right to form and join labor unions, subject to registration by the Department of Labor and Industrial Relations. The government did not use registration to control unions; however, an unregistered union has no legal standing and thus cannot operate effectively. An estimated half of the approximately 250,000 wage earners in the formal economy were members of approximately 50 trade unions. The Public Employees Association represented an estimated 18,000 persons employed by national, provincial, and municipal governments, or one-third of the public sector work force. The law prohibits antiunion discrimination by employers against union leaders, members, and organizers; however, it was enforced selectively. Unions were independent of the government and of political parties.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and engage in collective bargaining, and workers exercised these rights in practice. Under the law the government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. The International Labor Organization has criticized this law. The Department of Labor and Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage were set through negotiations between employers and employees or their respective industrial organizations.

The law provides for the right to strike, although the government can and often does intervene in labor disputes to require arbitration before workers can legally strike. The law prohibits retaliation against strikers, but it was not always enforced. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies or in pay disputes. In most cases these strikes were brief and ineffective.

At year's end no decision had been made regarding the legality of a December 2005 nurses' strike or the disciplinary actions taken against nurses who participated in the strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred in the formal economy. Some children were obliged to work long hours as domestic servants in private homes.

d. Prohibition of Child Labor and Minimum Age for Employment

The law establishes the minimum working age as 16; for hazardous work, the minimum age is 18. However, children between the ages of 11 and 18 may be employed in a family business or enterprise provided they have parental permission, a medical clearance, and a work permit from a labor office. This type of employment was rare, except in subsistence agriculture. Work by children between the ages of 11 and 16 must not interfere with school attendance. Some children under 18 worked in bars and nightclubs and were vulnerable to commercial sexual exploitation.

e. Acceptable Conditions of Work

The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. The national youth wage, for new entrants into the labor force between 16 and 21 years of age, was set at 75 percent of the adult minimum wage. The minimum wage was \$12.75 (37.50 kina) per week, and although it was above the national per capita income, it did not provide a decent standard of living for a worker and family who lived solely on the cash

economy.

The law regulates minimum wage levels, allowances, rest periods, holiday leave, and overtime. Although the Department of Labor and Industrial Relations and the courts attempted to enforce the minimum wage law, enforcement was not effective. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas and provides for premium pay for overtime work. The law provides for at least one rest period of 24 consecutive hours every week; however, enforcement was lax. The Department of Labor and Industrial Relations is responsible for enforcing the Industrial Health and Safety Law and related regulations. The law requires inspection of work sites on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions. In February, after receiving complaints, the labor secretary visited the Ramu nickel mine in Madang Province, operated by a Chinese government-owned company, and concluded that conditions violated labor laws and regulations. Among the problems cited were extremely inadequate food, sanitary facilities, and housing. Reportedly the company subsequently made some improvements in workers' living conditions.

Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations. The law protects legal foreign workers. The few illegal foreign workers lacked full legal protection.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Philippines

Country Reports on Human Rights Practices - 2007

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

The Philippines, with a population of 89 million, is a multiparty republic with an elected president and bicameral legislature. On May 14, approximately 73 percent of registered citizens voted in mid-term elections for both houses of congress and provincial and local governments. The election was generally free and fair but was marred by violence and allegations of vote buying and electoral fraud. Civilian authorities generally maintained effective control of the security forces; however, there were some instances in which elements of the security forces acted independently.

Arbitrary, unlawful, and extrajudicial killings by elements of the security services and political killings, including killings of journalists, by a variety of actors continued to be a major problem. Despite intensified government efforts to investigate and prosecute these cases, many went unsolved and unpunished. Concerns about impunity persisted. Members of the security services committed acts of physical and psychological abuse on suspects and detainees, and there were instances of torture. Arbitrary or warrantless arrests and detentions were common. Trials were delayed, and procedures were prolonged. Prisoners awaiting trial and those already convicted were often held under primitive conditions. Corruption was a problem in all the institutions making up the criminal justice system, including police, prosecutorial, and judicial organs. In addition to the killings mentioned above, leftwing and human rights activists were often subject to harassment by local security forces. Problems such as violence against women and abuse of children, child prostitution, trafficking in persons, child labor, and ineffective enforcement of worker rights were common.

In addition to killing soldiers and police officers in armed encounters, the New People's Army (NPA, the military wing of the Communist Party, CPP) killed local government officials and ordinary civilians, including through the use of landmines, and were suspected by the government in many of the killings of leftwing activists. The NPA also used child soldiers in combat roles. Terrorist groups committed bombings that caused civilian casualties; these groups also used child soldiers.

The government took steps to invigorate the investigation and prosecution of cases of arbitrary, unlawful, and extrajudicial killings: a command responsibility directive advised Armed Forces of the Philippines (AFP) officers that they would be held accountable for not taking preventive or corrective action when they have knowledge that crimes are committed by subordinates; the Supreme Court issued rules on "amparo," which provides citizens with the courts' protection; the Philippine National Police (PNP) and the AFP created human rights offices to provide guidance and training to their personnel and to coordinate with other government human rights organizations; and President Arroyo ordered "cooperation and coordination" between prosecutors and police from the outset of a political or media killing "until the termination of cases in court." The full results of these reforms in terms of indictments and convictions were not yet visible, but government agencies, human rights nongovernmental organizations (NGOs), and even some of the government's critics noted a significant decrease in the number of killings. Moreover, seven local police chiefs were relieved of their commands for suspected involvement or failure to pursue cases of unlawful killings.

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 and antigovernment insurgents committed a number of arbitrary and unlawful killings. The Commission on Human Rights (CHR) investigated 71 complaints of killings between January and June; 25 of these cases were classified as politically motivated. The CHR suspected personnel from the PNP and the AFP in a number of the killings of leftist activists operating in rural areas. Allegations of summary executions by government security forces were referred to the NGO Task Force Detainees of the Philippines (TFDP). The TFDP was unable to investigate all of these allegations, but it alleged the summary executions of 18 individuals by government forces through year's end.

In May 2006 the government formed "Task Force Usig" within the PNP to investigate the killings of activists and journalists. By year's end the PNP Task Force Usig recorded 141 cases of killings since 2001, seven of which occurred during the year; 80 cases were filed in court, with four convictions in 2005-6, and the remainder still under investigation. At least one human rights organization, KARAPATAN, claimed that there have been more than 800 extrajudicial killings since 2001, and it asserted that 69 of these had occurred during the year, compared to its claimed 209 killings in 2006.

In August 2006 President Arroyo created an independent commission to investigate patterns in the killings of journalists and leftist activists and to make policy and legislative recommendations for dealing with the problem. In a January 22 report, the commission stated that there was no official or sanctioned policy on the part of the military or its civilian superiors to allow or condone unlawful killings. However, circumstantial evidence linked "rogue" elements of the military to the killings. The commission's recommendations included: issuance of a military directive outlining command responsibility; strengthening the Department of Justice's (DOJ) witness protection program; designation of special courts to prosecute cases of extrajudicial killings; creation of a Human Rights Office in the AFP; revitalization of a Presidential Human Rights Committee; additional funding for the CHR; and a formal instruction to the DOJ and Department of National Defense to cooperate and coordinate with the CHR. During the year the government adopted these recommendations, with the sole exception of the strengthened witness protection program, and legislation was under consideration to effectuate that recommendation.

Arbitrary and unlawful killings during the year included: the January 19 killing of university professor Jose Maria Cui in Catarman, Northern Samar, by two unidentified persons. Cui was a member of Bayan Muna, a leftist organization, and a former secretary-general of the human rights group KARAPATAN (Rights) in Eastern Samar.

The February 15 killing of Farly Alcantara, a student at the Camarines Norte State College and member of the militant League of Filipino Students, in Daet, Camarines Norte, by an unidentified assailant.

The March 10 killing of Siche Gandinao, a member of the Misamis Oriental Farmers Association, an affiliate of the left-leaning Kilusang Magbubukid ng Pilipinas (Philippine Peasant Movement) in Salay, Misamis Oriental, by an unidentified assailant. Gandinao's husband and daughter, who witnessed the shooting, alleged that the assailant ran away in the direction of a nearby army detachment. Siche Gandinao had testified before the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Philip Alston regarding the February 8 killing of her father-in-law, Dalmacio Gandinao.

All of these killings were under investigation at year's end.

Investigations of cases from 2005 and 2006 were still ongoing.

On May 25, the police arrested and filed murder charges against two AFP officers and 10 other unidentified suspects for the August 2006 killing of United Methodist Church pastor Isaias Santa Rosa in Daraga, Albay. On June 8, however, the prosecutor dismissed the case for lack of evidence.

There were no reported developments in the May 2006 killing of Sotero Llamas and the July 2006 killing of Alice Claver. The alleged perpetrators in the killing of Llamas were at large, while the suspect police officer in the killing of Claver remained in police custody.

There were no developments in the cases of the 2005 killings of Bayan Muna leader Felidito Dacut and two pastors of the United Church of Christ in the Philippines. Two members of the army were charged with murder in a regional trial court for the 2005 killing of union leader Ricardo Ramos. At year's end the suspects remained at large. The prosecutor's office dismissed the cases of the 2005 killing of Bayan Muna councilor Abelardo Ladera and Aglipayan Church priest William Tadena for lack of probable cause.

On May 17, a Bureau of Immigration guard shot and killed a foreign detainee inside the immigration detention facility. The Immigration Commissioner ordered the guard's dismissal, as well as that of three other guards on duty at the time of the incident. The guard remained in police custody at year's end.

Although there were allegations that military hazing caused the May 8 death of a Philippine Military Academy cadet, medical records showed that the first year student died of severe complications from pneumonia.

Government forces killed a number of civilians during clashes with antigovernment forces and with the terrorist Abu Sayyaf Group (ASG) and the NPA. Communist insurgents, mainly from the NPA, continued to kill political figures, military and police officers, and civilians, including suspected military and police informers. Extortion groups associated with the ASG killed persons in bombings.

The PNP recorded a total of 229 incidents of election-related violence during the official election period from January 14 to June 13, resulting in 121 deaths and 176 injuries. Most violent activity took place in connection with campaigns for local-level offices or stemmed from long-standing political or family rivalries. The PNP noted more incidents of violence in the Autonomous Region in Muslim Mindanao (ARMM) and more killings in the Bicol Region than in other regions of the country.

Vigilante groups were suspected of conducting summary killings of criminals in two major cities, and local officials appeared to condone and even encourage them. At year's end the TFDP recorded 58 apparent vigilante killings in Davao City, Mindanao. In Cebu City in the Central Visayan Region, the police recorded at least three killings during the year. The victims were suspected of involvement in criminal activities, and the killings appeared to have popular support. The authorities made no arrests in these cases.

b. Disappearance

According to local human rights NGOs, government forces were responsible for disappearances. At year's end the domestic NGO Families of Victims of Involuntary Disappearances (FIND) documented 35 victims of involuntary disappearance: five were found alive, two were found dead, and 28 remained missing. FIND suspected government forces in the majority of these cases, while unidentified armed men were suspected in the remaining cases. Task Force Usig documented five cases of forced disappearance of activists; no case had been filed and no arrests had been made at year's end.

On April 28, four men and a woman, alleged to be AFP personnel in Bulacan, abducted activist Jonas Burgos and two others in Quezon City, metro Manila. On July 24, the Supreme Court ordered the AFP to present Burgos before the court of appeals; however, the AFP denied that Burgos was in its custody. At year's end Burgos and the two others remained missing, and the court of appeals had not concluded its hearings. The CHR also conducted a public inquiry into Burgos' whereabouts, which concluded on September 11, with no new findings.

On May 27, the court of appeals dismissed for lack of evidence a petition filed against the AFP to produce abducted University of the Philippines students Sherlyn Cadapan and Karen Empeno and local citizen Manuel Merino who had been missing since June 2006. The court referred the case to the PNP, the CHR, and the National Bureau of Investigation for further investigation. At year's end the three were still missing. Writ of amparo petitions (see section 1.e.) were filed against the military in the cases of Cadapan, Empeno, Merino, and Jonas Burgos. The petitions were pending in court at year's end.

Some victims' families complained that the courts and police failed to address adequately their complaints concerning disappearances in which security forces were suspected. Evidence of a kidnapping or killing is required in order to file charges. FIND and Amnesty International's Manila office continued to support the efforts of victims' families to press charges. In most cases, evidence and documentation were unavailable, and convictions were rare. Out of 16 court cases related to disappearances of concern to FIND, none had been resolved as of year's end. Judicial inaction on the vast majority of disappearances contributed to a climate of impunity and undermined public confidence in the justice system.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits torture, and evidence obtained through its use is inadmissible in court; however, members of the security forces and police were alleged to have routinely abused and sometimes tortured suspects and detainees. The CHR provided the police with mandatory human rights training. The CHR noted that senior PNP officials appeared receptive to respecting the human rights of detainees, but rank-and-file awareness of the rights of detainees remained inadequate.

The TFDP asserted that torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation reportedly included striking detainees and threatening them with guns. The TFDP reported that arresting officers often carried out such beatings in the early stages of detention.

Another human rights NGO, the Philippine Alliance of Human Rights Advocates, also reported that police used excessive force in apprehending suspects.

Within the AFP, the CHR continued to observe greater sensitivity to the need to prevent human rights violations. The CHR is required to determine whether an officer being considered for promotion has a history of human rights violations; however, a negative CHR finding does not preclude promotion. The CHR also vets PNP officers at the senior superintendent level. Nevertheless abuses still occurred. Human rights activists complained of abuses by security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, some members of the AFP continued to beat ASG suspects.

The TFDP documented 16 cases of torture involving 28 victims from January to December. The CHR investigated 18 cases of alleged torture during the year. The majority of suspects in both the TFDP and CHR cases were members of the PNP.

On January 3, the police arrested Ricardo Ayeras in Quezon Province for his alleged involvement in a 2005 bombing. Ayeras alleged that police interrogators in the PNP headquarters beat and used electric shock on him to force him to admit his involvement. On February 16, a local trial court judge ordered his release for lack of evidence.

There were reports that prison guards physically abused inmates. The CHR and TFDP reported that abuse by prison guards and other inmates was common, but prisoners, fearing retaliation, refused to lodge formal complaints. Women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials.

Prison and Detention Center Conditions

Prison conditions were rudimentary and sometimes harsh. Provincial jails and prisons were overcrowded, lacked basic infrastructure, and provided prisoners with an inadequate diet. Jails managed by the Bureau of Jail Management and Penology (BJMP) operated at an average of 260 percent of designed capacity. Prison administrators allotted a daily subsistence allowance of approximately \$0.86 (40 pesos) per prisoner. Lack of potable water and poor ventilation continued to cause health problems. The slow judicial process exacerbated overcrowding.

There were reports of widespread corruption among prison guards and, to some extent, at higher levels of authority within the prison system. Some detainees at immigration detention centers reportedly gained release by making cash payments to guards.

The February 2006 CHR report on the 2005 escape attempt at Camp Bagong Diwa, during which three guards and 22 inmates were killed, concluded that the authorities used excessive force and that inmates were mistreated or summarily executed. It recommended that the DOJ create a committee to investigate; however, by year's end, the DOJ had not yet investigated the case.

According to BJMP regulations, male and female inmates are to be held in separate facilities and, in national prisons, overseen by guards of the same sex. Anecdotal reports suggested that these regulations were not uniformly enforced. In provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children, in some instances children were held in facilities not fully segregated from adult male inmates. Only 292 out of 1,078 jails managed by the BJMP and PNP had separate cells for minors, while 410 jails had separate cells for adult females.

During the year the BJMP established two detention centers exclusively for women. More than 1,100 minor inmates were transferred to two BJMP youth centers, government social welfare centers, and nongovernmental shelters in compliance with the 2006 law on juvenile justice. On July 16, President Arroyo directed the immediate release of all minor prisoners age 15 years and below at the time they committed the crime; however, the BJMP had released only 30 minor inmates by year's end. The BJMP released minor inmates in response to a court order following a petition by the public attorney's office or by the inmate's private lawyer.

International monitoring groups, including the International Committee of the Red Cross, were allowed free access to jails and prisons.

d. Arbitrary Arrest or Detention

The law requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, in a number of cases, police arrested and detained citizens arbitrarily. At year's end the TFDP documented 42 cases of illegal arrest and detention involving 92 victims.

Role of the Police and Security Apparatus

The Department of National Defense directs the AFP, which shares responsibility for counterterrorism and counterinsurgency operations with the PNP. The Department of Interior and Local Government directs the PNP, which is responsible for enforcement of law and order and urban counterterrorism; however, governors, mayors, and other local officials have considerable influence. The 115,000-member PNP has deep-rooted institutional deficiencies and suffered from a widely held and accurate public perception that corruption remained a problem. PNP's Internal Affairs Service remained largely ineffective. Members of the PNP were regularly accused of torture, of soliciting bribes, and of other illegal acts. Efforts were underway to reform the institution in part to counter a widespread impression of official impunity. From January to December, the PNP dismissed 107 policemen. Of the 1,608 administrative cases filed against PNP officers and personnel, 677 were resolved, 269 remained under preliminary investigation, and 662 underwent summary proceedings. During the year seven local police chiefs were relieved of their commands for suspected involvement or failure to pursue cases of unlawful killings in their areas of responsibility. On March 10, the PNP director general ordered the relief of the police chief of Salay City, Misamis Oriental, for his inaction in the killings of Bayan Muna member Dalmacio Gandinao and his daughter-in-law.

In January and April, the AFP and PNP, respectively, created human rights offices to monitor and investigate allegations of personnel involvement in human rights abuses. During the year the AFP Human Rights Office investigated 60 complaints of killings, forced disappearance, and torture, allegedly committed by members of the AFP. On August 8, the AFP created five general courts-martial to hear administrative cases of officers and soldiers accused of human rights violations. At year's end two members of the army were undergoing court-martial proceedings for their alleged involvement in killings. These two also were being investigated and prosecuted in the civilian courts. One was on trial for murder in a civilian criminal court, the other remained under investigation.

Arrest and Detention

Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence, the right to bail; however, according to government figures, only 1,204 or 2 percent of detainees were able to post bail. The law provides that an accused or detained person has the right to a lawyer of his choice and that the state must provide one when the accused cannot afford one. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, with the time given to file charges increasing with the seriousness of the crime. Lengthy pretrial detention remained a problem. During the year the authorities released seven detainees who had been held for periods equal to or longer than the maximum prison terms they would have served if convicted.

The NPA, as well as some Islamic separatist groups, were responsible for a number of arbitrary detentions.

e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes bribery resulted in impunity for some wealthy and influential offenders and contributed to widespread skepticism that the judicial process could ensure due process and equal justice. The Supreme Court continued efforts to ensure speedier trials, sanction judicial malfeasance, increase judicial branch efficiency, and raise public confidence in the judiciary. After assuming office in December 2006, Chief Justice Reynato Puno declared that fighting corruption in the judiciary would be one of his top priorities, and during the year he initiated investigations that resulted in the firing of a court of appeals justice, four judges from the regional trial courts, and several court personnel charged with accepting bribes in exchange for the issuance of certain decisions. The chief justice also mobilized audit teams to perform financial and management audits on various courts.

The national court system consists of four levels: local and regional trial courts; a national court of appeals divided into 17 divisions; a 15-member Supreme Court; and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The Sandiganbayan, the government's anticorruption court, hears criminal cases brought against senior officials. A Shari'a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces. The courts-martial, each composed of at least five active-duty military officers, hear cases against military personnel accused of violating the Philippine Articles of War. The president, the chief of staff of the armed forces, or a military unit commander may appoint the members of a court-martial.

There were two killings of judges during the year. On January 19, unidentified men shot and killed Quezon City Metropolitan Court Judge Nathaniel Pattugalan. Pattugalan had survived a 2005 attack. Security forces filed charges against a former town vice-mayor, an army corporal, and a policeman in the 2005 incident and, at year's end, were investigating their possible connection with the killing. On July 25, Regional Trial Court Judge Orlando Velasco was shot in Bayawan City, Negros Oriental; he died two days later. At year's end the police were investigating, and no one had been arrested in connection with the killing.

The trial for the 2005 killing of a Pasay City judge remained pending at year's end.

Trial Procedures

The law provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial before a judge. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, but poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers

staffed the Public Attorney's Office (PAO), but their workload was large and resources were scarce. The PAO provides legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

The law provides that cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for a court of appeals; and three months for lower courts. However, these time limits are not mandatory, and, in effect, there were no time limits for trials.

Lengthy pretrial detention remained a problem. A 2005 UN Development Program (UNDP) and a Supreme Court study found that the average trial takes more than three years. Trials take place in short sessions over time and as witnesses become available; these noncontinuous sessions created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high; of the total 2,166 trial court judgeships (including Shari'a courts), 456 (21 percent) were vacant, a small decline from 2006. Courts in Mindanao and other poorer provinces had higher vacancy rates than the national average. Shari'a court positions were particularly difficult to fill because of the requirement that applicants be members of both the Shari'a Bar and the Integrated Bar. All five Shari'a district court judgeships and 37 percent of circuit court judgeships remained vacant. Shari'a courts do not have criminal jurisdiction.

The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people." The NPA executed some of these "defendants." The Moro Islamic Liberation Front also maintained similar "people's courts."

Political Prisoners and Detainees

Various human rights NGOs maintained lists of incarcerated persons they considered to be political prisoners. At year's end the TFDP reported that there were 221 political prisoners. Typically, there was no distinction in these lists between detainees and prisoners, and the majority of persons listed have not been convicted. Some NGOs asserted that it was frequent practice to make politically motivated arrests of persons for common crimes and to continue to detain them after their sentences expired. The government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it did not consider the persons listed to be political detainees or prisoners. The CPP/NPA demanded that their members under detention by the PNP or AFP be treated as political prisoners as one of the preconditions for resuming peace talks with the government.

During the year the government released 85 persons whom NGOs claimed were political prisoners. The TFDP recorded 75 new "political prisoners" incarcerated during the year.

The government permitted access to alleged political prisoners by international humanitarian organizations.

Civil Judicial Procedures and Remedies

The judiciary is independent and impartial in civil matters. There are administrative remedies as well as judicial remedies for alleged wrongs; however, corruption is widespread in the judiciary, and cases were often dismissed. Complainants have access to local trial courts to seek damages for, or cessation of, human rights abuses. On October 24, the Supreme Court issued rules on the "writ of amparo," a remedy available to victims of human rights abuses, particularly extrajudicial killings and enforced disappearances. The writ, which may be filed in any regional court against any public official or private individual, gives the respondent five working days to provide all relevant information regarding the case, including steps taken to investigate the fate or whereabouts of the victim. If the respondent is a public official there are additional requirements, including a statement that suspected offenders will be brought to court.

During the year human rights lawyers filed 15 writ of amparo petitions, against the military, of which seven were resolved and eight were pending hearings. Four of the resolved cases resulted in the releases of Ruel Munasque, Luisito Bustamante, Jeffrey Panganiban, and Edwin Malapote from military custody. The courts also granted protection orders to these four persons and their families. Of the other cases, one was dismissed and two were pending motions for reconsideration filed by the government.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law provides that a judge may issue search warrants on a finding of probable cause; however, while the government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges declared evidence obtained illegally to be inadmissible.

The government generally respected the privacy of its citizens; however, leaders of communist organizations and rural-based NGOs complained of what they described as a pattern of surveillance and harassment. The Human Security Act of 2007 allows law enforcement authorities, with a written order from the Court of Appeals, to intercept and record conversations and any other form of communication between members of terrorist organizations or any person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year. The law provides certain protections for squatters; eviction was often difficult, especially because politicians recognized squatters' voting power. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters was limited. Through November the government evicted and resettled 9,900 of the estimated 51,000 families in Manila and southern Luzon expected to relocate for the South Luzon railway project. The project continued at year's end.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

The government was engaged in combat with antigovernment forces and terrorists who actively sought to destabilize the country. Government forces killed a number of civilians during clashes with antigovernment forces and with the terrorist ASG and the NPA. Some citizen groups complained that the AFP, in confronting the terrorist ASG and NPA, illegally detained citizens, destroyed houses, displaced residents, and shelled villages.

Killings

Communist insurgents, mainly from the NPA, continued to kill political figures, military and police officers, and civilians, including suspected military and police informers. The NPA and other extortion groups also harassed businesses and burned buses and private communication facilities to enforce the collection of "revolutionary taxes."

On January 20, suspected NPA rebels killed one person and wounded two others in a random shooting in Las Nieves, Agusan del Norte. On May 16, NPA rebels attacked and killed seven soldiers in Manabo, Abra Province, who were deployed to provide security for transfer of election results from polling precincts to the town center for canvassing. On June 10, armed men allegedly members of a breakaway faction of the Moro Islamic Liberation Front (MILF) abducted an Italian missionary priest in Payao, Zamboanga Sibugay. On July 10, ASG forces ambushed and killed 14 marines who were searching for the priest in Basilan. Ten of the marines were beheaded. On July 29, a clash between the AFP and NPA rebels in Juba, Sorsogon, killed two soldiers and two civilians. The AFP alleged that the NPA used landmines in the attack.

In July and August, the Philippine military lost more than 50 soldiers in clashes with terrorist and insurgent groups, including the 10 beheaded on July 10. An estimated 40 enemy combatants were killed during these clashes.

Extortion groups allegedly linked with the ASG and the Jemaah Islamiyah (JI) launched a series of bomb attacks against two bus companies in Mindanao. On May 18, a bomb inside a bus in Cotabato City killed three passengers and wounded at least 35. On June 15, bomb explosions onboard two buses in Bansalan, Davao del Sur, and

in Cotabato City killed nine persons. On August 21, a bomb in a public square in Zamboanga City injured 16 persons.

On January 13, police authorities arrested a suspect in the October 2006 bombings in Makilala, North Cotabato, and in Tacurong, Sultan Kudarat. The DOJ filed charges of multiple murder and attempted murder against the suspect, allegedly a MILF commander. At year's end the suspect remained in jail pending trial.

Child Soldiers

During the year the NPA and the ASG targeted children for recruitment as combatants and noncombatants. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombatant duties; however, there were reports that the NPA continued to use minors in combat. During the year the Philippine Interagency Committee on Children Involved in Armed Conflict reported nine child soldiers rescued by or surrendered to the government. On March 1, seven NPA rebels surrendered to the military in Davao City; at least two were minors. One child claimed she and 13 other child soldiers in the NPA camp carried firearms. On August 9, a 16-year-old boy, who claimed to be a member of the NPA's propaganda arm, surrendered to police authorities in Davao del Sur.

The ASG also recruited teenagers to fight and participate in its activities. There were reports that a significant number of ASG members staffing the groups' camps were teenagers. The AFP stated that some Islamic schools in Mindanao served as fronts to indoctrinate children and that the ASG used children as couriers and spies.

Throughout the year, clashes between the AFP, JI, and the ASG, mostly in the Zamboanga Peninsula and Sulu Archipelago, contributed to the displacement of civilians. These terrorist groups killed and wounded civilians in a number of bombings.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The government owned several television and radio stations; however, most print and electronic media were privately owned. The media were active and expressed a wide variety of views without restriction. Broadcast and print media were freewheeling and often criticized for lacking rigorous journalistic ethics. They tended to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom were close associates of present or past high-level officials. Special interests often used bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions.

Journalists continued to be killed. The Center for Media Freedom and Responsibility (CMFR) reported six journalists killed during the year. The CMFR and Task Force Usig classified two of these cases as work-related killings.

On April 18, unidentified assailants killed Carmelo Palacios, a police reporter for a government-run radio station, in Santa Rosa, Nueva Ecija. Palacios reported on the alleged misuse of a congressman's pork barrel funds and also helped solve several local crimes by providing leads to the police. At year's end the case remained under investigation.

On December 24, unidentified assailants killed Fernando Lintuan, a radio broadcaster who was a vocal critic of local government corruption, in Davao City, Mindanao. The case remained under investigation at year's end.

The trials in the May 2006 killing of Fernando Batul, a radio commentator in Puerto Princesa City, Palawan, and in the 2005 killing of Philip Agustin, a newspaper editor in Aurora Province, were ongoing at year's end.

In July 2006 suspects in the 2004 killing of Ilocos Norte radio commentator Roger Mariano were arraigned, and a trial was underway in a Manila trial court. The two suspects, including a police officer, were detained in the Manila City Jail.

Human rights NGOs frequently criticized the government for failing to protect journalists. The National Union of Journalists of the Philippines accused the police and the government of failing adequately to investigate these killings and of subjecting journalists to harassment and surveillance. In some situations, it was difficult to discern if violence against journalists was carried out in retribution for their profession or if these journalists were the victims of random crime. According to a CMFR study released in 2005, most slain journalists were not professionally trained as journalists or formally accredited to any national media organization.

On February 14, the DOJ charged the publisher and two columnists of the *Daily Tribune* with incitement to sedition based on articles the newspaper had published in 2005 and January 2006. The police occupied the premises of the *Daily Tribune* in February 2006 during the brief state of national emergency and confiscated copies of the mock-up copy of the newspaper's next issue and photographs. The newspaper's publisher and two columnists were subsequently charged with incitement to sedition. In May 2006 the Supreme Court upheld the validity of the imposition of a state of national emergency, but ruled the raid on the newspaper an attack on press freedoms and hence illegal.

On August 13, a court dismissed the libel cases against the publisher, eight editors, and a columnist of a major newspaper, which were filed by the president's husband Jose Miguel Arroyo, after Arroyo withdrew the charges. In December 2006 36 media members and three media organizations filed a class suit against Mr. Arroyo in retaliation for the libel cases filed against them. On September 24, the Court of Appeals granted Mr. Arroyo's petition for a temporary suspension of the hearings. The trial remained suspended at year's end.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in peaceful expressions of views via the Internet, including by e-mail. Internet access was widely available.

Academic Freedom and Cultural Events

In 2005 the intelligence service of the AFP released a presentation, "Know Your Enemy," listing some press unions and student organizations as "enemies of the state" or communist fronts. There were no reports that the military used the presentation during the year. The government did not otherwise interfere with academic freedom. There were no government restrictions on academic freedom or cultural events.

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. Although the law requires that groups request a permit to hold a rally, the government at times followed an unwritten policy of allowing rallies to occur without the filing of a request.

During the year the TFDP recorded four instances of violent dispersal of rallies by police, in which 21 protesters were allegedly injured. On January 12, approximately 500

members of civil society groups staged a rally during the Association of Southeast Asian Nations (ASEAN) Summit in Cebu. Police blocked protesters from going near the venue of the summit. The protesters alleged that the police caused many injuries as they dispersed the crowds. Some protesters were arrested and charged with illegal assembly and public disturbance.

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.

The government's campaign against the terrorist groups ASG and the Rajah Solaiman Movement led some human rights NGOs to accuse the police and military of unfairly targeting Muslims for arrest and detention. However, most observers believed that discrimination against Muslims was grounded in cultural differences, not religious beliefs or practices.

Intermittent government efforts to integrate Muslims into political and economic society achieved only limited success. Many Muslims claimed that they continued to be underrepresented in senior civilian and military positions and cited the lack of proportional Muslim representation in national government institutions. Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development. The percentage of the population under the poverty level in the ARMM was almost twice as high as the national average, with per capita income of \$340 (15,760 pesos) per year.

The teaching of religious classes in public schools is permitted with the written consent of parents, provided that it is conducted at no cost to the government.

Societal Abuses and Discrimination

Historically, the Christian majority has marginalized Muslims. The national culture, with its emphasis on familial, tribal, and regional loyalties, created informal barriers whereby access to jobs or resources is provided first to those of one's own family or group network. Muslims reported difficulty renting rooms or being hired for retail work if they used their real names or wore distinctive Muslim dress. As a result, some Muslims used Christian pseudonyms and did not wear distinctive dress when applying for housing or jobs.

An estimated 400 to 1,000 Jews lived in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign travel was limited only in rare circumstances, such as when a citizen has a pending court case. Government authorities discouraged travel by vulnerable workers to areas in which they face personal risk.

The government retained its formal albeit ineffective ban on travel to Iraq to work. The Philippine Overseas Employment Administration (POEA) sought to limit departures for work abroad to persons the POEA certified as qualified for the jobs. Millions of citizens worked overseas and remitted money home. Such remittances accounted for approximately 11 percent of the gross national product.

Forced exile is illegal, and the government did not use it.

Internally Displaced Persons (IDPs)

Clashes between the AFP and elements of the MILF, the ASG, and the Moro National Liberation Front (MNLF) in Mindanao resulted in thousands of IDPs. At year's end according to the Department of Social Welfare and Development (DSWD), the total number of IDPs was 62,728 persons, including newly displaced IDPs in Sulu and Basilan. Other agencies, including UNDP, the Mindanao Emergency Relief Network, and the Red Cross provided food and essential items such as medicine, blankets, mosquito nets, and soap to IDPs.

From April to May, hostilities between government troops and a faction of MNLF rebels led by Habier Malik displaced thousands of persons in Sulu. Following the July 10 killing and beheading of 14 marines in Basilan, government forces launched limited offensive attacks against the ASG in July and August. Thousands of villagers were evacuated from Basilan as a result of the clashes.

Protection of Refugees

The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, there is no comprehensive legislation that provides for granting refugee status or asylum. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. The refugee unit in the DOJ determined which asylum seekers qualify as refugees; such determinations in practice implemented many of the basic provisions of the 1951 convention. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or its 1967 protocol. This was the case for some 2,000 Vietnamese who were found not to be refugees under the UNHCR-administered Comprehensive Plan of Action in the 1990s. Subsequently the government allowed processing for resettlement of this group, approximately 1,500 of whom were resettled in the United States. An estimated 176 persons, most of whom married Philippine citizens, remained in legal limbo: ineligible for resettlement in other countries and not granted permanent asylum.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The UNHCR recorded an estimated 100 refugees in 2006.

The UNHCR reported two stateless persons in the country, neither of whom had acquired Philippine nationality by year's end.

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 elections that largely were free and fair and held on the basis of universal suffrage.

Elections and Political Participation

On May 14, midterm elections were held for senators, representatives, provincial governors, and local government officials. Voter turnout was high, with approximately 73 percent of eligible voters participating; however, incidents of violence and allegations of fraud in certain localities marred the generally free and fair conduct of elections. Vote buying in certain areas was common, and many residents accepted bribes to vote in a certain way or to act as "flying voters," voting in several precincts. The Bantay Eleksyon (Election Watch), a coalition of local civil society election monitors, found the May mid-term elections "generally in consonance with international criteria for free and fair elections" but expressed concern regarding election administration, enforcement of election laws, prosecution of election offenders, and other related areas. There were reports that local politicians and their supporters engaged in vote buying and that conditions did not ensure that balloting was secret. Allegations of election fraud were particularly prevalent in the ARMM, where civil society groups and the media reported violence, intimidation of voters and poll workers, and other irregularities. The Commission on Elections (COMELEC) suspended the tabulation of votes in Maguindanao Province because of allegations of fraud and declared a failure of elections in 13 towns of Lanao del Sur because of the threat of violence. On May 26, the COMELEC, under tight security, supervised special elections in the 13 towns in Lanao del Sur. In June the COMELEC resumed tabulation of the Maguindanao vote. However, a senatorial candidate filed a protest alleging fraud, which remained pending at year's end.

The NPA reportedly extorted money from candidates refusing permission to campaign in certain areas.

Approximately 81,700 of 504,000 registered overseas voters, or 16 percent, voted, a small portion of the millions of Filipinos working overseas. Election NGOs attributed the low rate of registration and turnout of overseas voters to lack of information about the procedures, inaccessible registration centers, strict employers who did not allow overseas workers to take a day off, and the requirement that voters execute an affidavit to return to the country to reside within three years.

There were no restrictions in law or practice on participation by women and members of minorities in politics. Many women, including the president, held positions of leadership and authority. There were four women in the 24-seat Senate and 26 women in the 240-seat House of Representatives. There were two women in the 23-member Cabinet, five female associate justices on the 15-member Supreme Court, and 16 women among the 79 governors.

Along with many other citizens, Muslims argued that electing senators from a nationwide list favored established political figures from the Manila area, to the disadvantage of Muslims. Election of senators by region would require a constitutional amendment, which many Muslims and members of other groups underrepresented in the national legislature favored. There were no Muslim senators and one Muslim cabinet member. There were 11 Muslim members in the 240-seat House of Representatives, mostly elected from Muslim-majority provinces.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. Both the government and the private sector have established a number of anticorruption bodies, including an ombudsman's office and an anticorruption court. Government efforts to prosecute acts of corruption significantly improved during the year with the number of convictions in the antigraft court rising by 169 percent compared with 2006 (94 convictions in 2007 compared to 35 in 2006). Conviction rates for cases brought to trial or resolved through plea bargains increased to 55 percent (94 convictions out of 171 cases) from approximately 19 percent (35 out of 188). Cases were opened against mid-level officials in the Department of Public Works and Highways, the Bureau of Customs, and the Bureau of Internal Revenue. During the year the ombudsman ordered the dismissal and suspension of several elected officials, including the governors of Iloilo and Batangas, and the mayors of Pasay City and Jaen, Nueva Ecija, on corruption-related charges. On March 5, the antigraft court filed graft charges against the governor of Samar Province and several other officials of the provincial government. The governor posted bail and trial was pending at year's end.

On September 12, the antigraft court found former president Joseph Estrada guilty of plunder for accepting millions of dollars in bribes while in office and sentenced him to up to 40 years in prison. On October 25, President Arroyo pardoned Estrada and restored his civil and political liberties. The forfeiture of assets in the court's decision remained in effect. Estrada accepted the pardon and was released from house arrest on October 26.

The law provides for the right to information on matters of public concern. However, denial of such information often occurred when the information related to an anomaly or irregularity in government transactions. Much government information was not available electronically and was difficult to retrieve.

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 CHR and, to some extent, the PNP responded to and investigated cases of human rights abuses, as requested by NGOs. Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from the area in which incidents under investigation took place.

On August 5, immigration authorities prevented two foreign women's rights activists from boarding their international flight because they were on a "watch list" of foreign citizens suspected of planning violent demonstrations and barred from entering the country prior to and during the ASEAN Summit in February and the ASEAN Ministerial Meetings in August. On August 14, the government lifted the entire watch list order and allowed the two activists to depart.

In February the government invited the UN Human Rights Council special rapporteur on extrajudicial, summary or arbitrary executions to visit. The special rapporteur without restrictions met with government officials, human rights groups, and families of victims of unlawful killings.

The CHR is an independent agency mandated to protect and promote human rights. It is empowered to investigate all human rights violations and to monitor the government's compliance with international human rights treaty obligations. The CHR has nonbinding authority to clear on military and higher-level police promotions. The commission has a chairperson and four members. CHR monitoring and investigating continued to be hamstrung by insufficient resources. Approximately one-third of the country's 42,000 barangays (villages) had human rights action centers, which coordinated with CHR regional offices; however, the CHR's regional and subregional offices remained understaffed and underfunded. The CHR nationwide budget for the year was \$4.56 million (216.49 million pesos).

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

Women

Rape continued to be a problem, with most cases unreported. During the year the PNP reported 879 rape cases. There were reports of rape and sexual abuse of women in police or protective custody--often women from marginalized groups, such as suspected prostitutes, drug users, and lower income individuals arrested for minor crimes.

Spousal rape and abuse are illegal, but enforcement was ineffective.

Violence against women remained a serious problem. The law criminalizes physical, sexual, and psychological harm or abuse to women and their children committed by their spouses or partners. During the year the PNP reported 3,892 cases of wife battering and physical injuries. This number likely underreported significantly the level of

violence against women.

The PNP and DSWD both maintained help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Approximately 9 percent of PNP officers were women. The PNP has a Women and Children's Unit to deal with these issues.

Prostitution is illegal but was a widespread problem. Many women suffered exposure to violence through their recruitment, often through deception, into prostitution. Penalties for prostitution are light, but detained prostitutes were sometimes subjected to administrative indignities and extortion. The DSWD continued to provide temporary shelter and counseling to women engaged in prostitution. From January to September, DSWD provided temporary shelter and counseling to 47 women who were victims of involuntary prostitution. Some local officials condoned a climate of impunity for those who exploited prostitutes. There were no convictions under the provision of the law criminalizing the act of engaging the services of a prostitute.

Sex tourism and trafficking in persons for sexual exploitation and forced labor were serious problems. An antitrafficking law outlaws a number of activities specifically related to trafficking and provides stiff penalties for convicted offenders.

The law prohibits sexual harassment. However, sexual harassment in the workplace was thought to be widespread and underreported due to victims' fear of losing their jobs. Female employees in special economic zones (SEZs) were particularly at risk; most were economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry worked on three- to five-month contracts and were often reluctant to report sexual harassment for fear their contracts would not be renewed.

The law does not provide for divorce, although courts generally recognize the legality of divorces obtained in other countries if one of the parties is a foreign national. The government recognizes religious annulment, but the process can be costly, which precludes annulment as an option for many women. Many lower-income couples simply separated informally without severing their marital ties. The family code provides that in child custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of seven are placed in the care of the mother unless there is a court order to the contrary. Children over the age of seven normally also remained with the mother, although the father could dispute custody through the courts.

In law, but not always in practice, women have most of the rights and protections accorded to men. Although women continued to face workplace discrimination, there was improvement on the status of employment of women. In a 2006 labor force survey, 58 percent of government officials, corporate executives, managers and supervisors were women. There were fewer unemployed women than men; the unemployment rate for women was 6.9 percent, while the rate for men was 7.7 percent.

The National Commission on the Role of Filipino Women, composed of 10 government officials and 13 NGO leaders appointed by the president, acted as an oversight body whose goal is to press for effective implementation of programs benefiting women.

Children

The government devoted considerable resources to the education, welfare, and development of children. The Department of Education (DepEd) had the largest budget of any cabinet department: 12 percent of the national budget. Nevertheless, children faced serious problems.

Elementary and secondary education is free and compulsory through age 11, but the quality of education remained poor due in part to inadequate resources. During the year according to DepEd figures, the estimated annual per pupil expenditure for basic education was \$133 (6,331 pesos). The DepEd budget for this year was \$2.8 billion (135 billion pesos). The public school enrollment rate for 2006-7 was 76 percent, slightly up from 74 percent for the 2005-6 school year. According to UN Children's Fund (UNICEF) statistics, girls and boys attended school in approximately equal numbers.

Boys and girls had equal access to state provided medical care. According to government reports, 68.3 percent of children were well nourished, and 83 percent were fully immunized. The child mortality rate was 33 out of 1,000 children under age five. Most of the malnourished children were in villages in the southern provinces of Maguindanao, Lanao del Sur, and Tawi-Tawi. According to UNICEF data from 1996 to 2005, 28 percent of children under age five were underweight.

Child abuse remained a problem. DSWD offices served 7,037 victims of child abuse from January to September, of whom 65 percent were girls. Approximately 53 percent of the girls were victims of sexual abuse, while 4 percent (184 girls) were victims of sexual exploitation. The majority of the boys had been abandoned or neglected. Several cities ran crisis centers for abused women and children. The problem of foreign pedophiles continued, and the government continued to prosecute accused pedophiles vigorously. Some children also were victims of police abuse while in detention for committing minor crimes.

Child prostitution continued to be a serious problem. In 2006 the Department of Labor and Employment (DOLE) ordered the closure of four establishments for allegedly prostituting minors. The trials for the cases against two of the four establishments were on-going at year's end, while charges against the two other establishments were not pursued.

The NPA and ASG continued actively to recruit minors both as combatants and noncombatants (see section 1.g.).

The government estimated that there were at least 22,000 street children nationwide, while UNICEF estimated that there were approximately 250,000 street children. Welfare officials believed that the number increased as a result of widespread unemployment in rural areas. Many street children appeared to be abandoned and engaged in scavenging or begging.

A variety of national executive orders and laws provide for the welfare and protection of children. Police stations have child and youth relations officers to ensure that child suspects are treated appropriately. However, procedural safeguards were often ignored in practice. The BJMP stated that 485 minors were held on "preventative detention" while their trials were ongoing, and only 12 of those were convicted and serving their sentences. Many child suspects were detained for extended periods without access to social workers and lawyers and were not segregated from adult criminals. NGOs believed that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other ill treatment. There were also reports that many children detained in jails appeared to have been arrested without warrants.

In May 2006 President Arroyo signed the Juvenile Justice and Welfare Act, which, among other reforms, changes the age of criminal responsibility from nine to 15 years of age. The law prohibits the detention of minors in jails while undergoing trial. During the year government agencies and NGOs worked to transfer minor prisoners to rehabilitation centers and to secure the release of minors wrongfully imprisoned and of those below 15 years of age. DSWD ran 11 regional youth rehabilitation centers for juvenile offenders. There were three detention centers for children in Manila.

Trafficking in Persons

Trafficking in persons is prohibited under the law, which defines several activities related to trafficking in persons as illegal and imposes stiff penalties--up to life imprisonment--for convicted offenders. Nonetheless, trafficking remained a problem in the country. The country was a source, transit, and destination country for men, women, and children trafficked for the purposes of sexual exploitation and forced labor. A significant number of men and women who migrate abroad for work were subjected to conditions of involuntary servitude. Women and children were also trafficked within the country, primarily from rural areas to urban areas for forced labor as domestic workers and factory workers and for sexual exploitation. A smaller number of women were occasionally trafficked from China, South Korea, Japan, and Russia to the country for sexual exploitation.

Both adults and children were trafficked domestically from poor, rural, areas in the southern and central parts of the country to major urban centers, especially Metro Manila and Cebu, but also increasingly to cities in Mindanao. A significant percentage of the victims of internal trafficking were from Mindanao and were fleeing the poverty and violence in their home areas. Approximately 75 percent of the trafficking victims provided with temporary shelter and counseling by the NGO Visayan Forum Foundation were from Mindanao. The Visayan region was also a source of trafficking victims. Women and girls were far more at risk of becoming victims of trafficking than men and boys.

Traffickers targeted persons seeking overseas employment. An estimated eight million Filipinos worked overseas, approximately 10 percent of the population and 20 percent of the workforce. Most recruits were females ages 13 to 30 from poor farming families. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted persons from their own hometowns, promising a respectable and lucrative job.

Although the government pursued trafficking-related cases under the antitrafficking law as well as other related laws, its efforts were hampered by slowness of the courts, resource constraints within law enforcement agencies, and corruption. The DOJ assigned 17 prosecutors to handle the preliminary investigation and prosecution of trafficking cases at the national level, in addition to other prosecutors in the regional trial courts. The principal investigative agencies were the National Bureau of Investigation, the Bureau of Immigration, the Philippine Center for Transnational Crimes, and the PNP's Criminal Investigation and Detection Group. The government cooperated with international investigations of trafficking.

During the year four persons were convicted and sentenced to life imprisonment under the antitrafficking law, bringing the number of convicted traffickers to eight since the law was enacted in 2003. During the year 59 new cases of trafficking were filed for prosecution, of which 29 were pending trial. As of December an estimated 161 trafficking in persons cases were pending or had trials underway; the DOJ was conducting preliminary investigations in another 123 cases.

In March five women, including one minor, filed complaints against a trafficker, who recruited them to work as entertainers in France. The women were trafficked to Abidjan, Cote d'Ivoire, where they were sexually exploited and were not paid the promised salary. On February 22, Interpol, in coordination with local and international NGOs, rescued the women and returned them to Manila. On July 13, the DOJ filed the case in court.

There were no developments in the July 2006 case of seven trafficked minors prostituted in Manila or in the 2005 trafficking charges against a Manila police officer and against the suspects in the trafficking of four victims to Malaysia.

Victims faced exposure to sexually transmitted or other infectious diseases, and were vulnerable to beatings, sexual abuse, and humiliation.

There was anecdotal evidence that some lower-level officials such as customs officers, border guards, immigration officials, local police, or others received bribes from traffickers or otherwise facilitated trafficking.

The government increased efforts to protect victims of trafficking, although it continued to rely on NGOs and international organizations to provide services to victims. Victims were not penalized for any crimes committed as a direct result of their being trafficked. The government, in conjunction with NGO partners, assisted victims by providing temporary residency status and relief from deportation; shelter; and access to legal, medical, and psychological services. Through September DSWD provided temporary shelter and social services to 112 women and 217 juvenile victims of trafficking. Additional protective services included hot lines for reporting cases and the operation of 24-hour halfway houses in 13 regions of the country to assist victims.

The government rarely deported or charged victims of trafficking with crimes; however, police sometimes charged alleged prostitutes with vagrancy. No reliable statistics indicating whether these individuals were victims of trafficking were available.

Victims may file civil suits or seek legal action against traffickers. Most victims who chose to do so filed charges of illegal recruitment. The government actively encouraged victims to assist in the investigation and prosecution of trafficking and related crimes. The NGO International Justice Mission (IJM), employing private investigators and lawyers, coordinated with the government in an effort to increase the number of pro bono prosecutions on behalf of victims of trafficking and commercial sexual exploitation. Cases were prosecuted in coordination with DOJ prosecutors. IJM initiated 32 cases under the antitrafficking in persons law, 20 of these cases were pending trial by year's end. On July 20, one of the IJM cases resulted in convictions, and two traffickers were sentenced to life imprisonment and fined \$63,023 (three million pesos).

Numerous government agencies and officials, as well as NGOs and international organizations, continued to support public information campaigns against trafficking. The government supported programs to prevent trafficking, such as the promotion of women's participation in economic decision making and efforts to keep children in school. The government provided skills training to women, lessening the need for them to go to urban centers or overseas for employment. However, funding remained limited.

Persons with Disabilities

The constitution prohibits discrimination against persons with disabilities in employment, education, access to health care, and other social services. The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments. The National Council for the Welfare of Disabled Persons formulates policies and coordinates the activities of all government agencies for the rehabilitation, self-development, and self-reliance of persons with disabilities and their integration into the mainstream of society. The DOLE's Bureau of Local Employment (BLE) maintained registers of persons with disabilities indicating their skills and abilities. BLE monitored private and public places of employment for violations of labor standards regarding persons with disabilities and also promoted the establishment of cooperatives and self-employment projects for persons with disabilities.

Assisted living centers were understaffed and underfunded. DSWD operated two assisted living centers in Metro Manila, and five community-based vocational centers for persons with disabilities nationwide. Through September the DSWD provided services to 2,693 persons with disabilities.

Advocates for persons with disabilities contended that equal-access laws were ineffective because implementing regulations were weak, funding was inadequate, and government programs were inadequately focused on integration. Many public buildings, particularly older ones, lacked functioning elevators. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Government efforts to improve access to transportation for persons with disabilities have been halting. Two of Manila's three light rail lines were wheelchair accessible; however, many stops had out-of-service elevators. Buses lacked wheelchair lifts, and there were reports of drivers who failed to stop for passengers in wheelchairs. A small number of sidewalks had wheelchair ramps, which were often blocked, crumbling, or too steep. The situation was worse in many smaller cities and towns.

The constitution provides for the right of persons with physical disabilities to vote; however, persons with mental disabilities are disqualified from voting. Persons with physical disabilities are allowed to vote with the assistance of a person of their choice.

Indigenous People

Indigenous people lived throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They accounted for approximately 14 percent of the national population, with over 60 percent of the total in Mindanao. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children suffered from lack of health, education, and other basic services. NGOs estimated that up to 70 percent of indigenous youth left or never attended school because of the discrimination they experienced.

Indigenous people suffered disproportionately from armed conflict, including displacement from their homes, because they often inhabited mountainous areas favored by guerrillas. Their lands were often the sites of armed encounters, and various parties to the fighting recruited many indigenous people.

A National Commission on Indigenous People (NCIP), staffed by tribal members, implements constitutional provisions to protect indigenous people. During the year, NCIP had a budget of \$10.11 million (480 million pesos). At year's end the NCIP had awarded Certificates of Ancestral Land and Ancestral Domain Titles covering over 2.77 million acres of land claimed by indigenous people in the country. It awarded such "ancestral domain lands" on the basis of communal ownership, stopping sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands and assigns indigenous groups the responsibility to preserve their domains from environmentally inappropriate development. The government was slow to implement the legislation, primarily because of opposition from mining and agribusiness interests, but some limited progress was made.

Other Societal Abuses and Discrimination

The law prohibits all forms of discrimination against persons with HIV/AIDS and provides basic health and social services for these persons. However, there was some evidence of discrimination against HIV/AIDS patients in the provision of health care, housing, and insurance services. The rate of HIV/AIDS remained low, although the rate of infection was believed to be underreported. Overseas workers are required to participate in an HIV/AIDS class as part of a pre-departure orientation seminar.

There was no widespread discrimination based on sexual orientation; however, there were anecdotal reports of abuse and discrimination against homosexuals. In April an organization of lesbian, gay, bisexual, and transgender persons applied for accreditation in the election of party-list representatives. The Commission on Elections denied their application.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the government. Unions have the right to form or join federations or other labor groups.

Through October the Bureau of Labor Relations reported 128 registered labor federations and 15,428 private sector unions, a slight increase from the number of unions registered in 2006. The 1.9 million union members represented approximately 5 percent of the total workforce of 35.9 million. The number of firms using contractual labor, primarily large employers, continued to grow. There were 1,555 public sector unions, with a total membership of 324,068 or approximately 20 percent of the total employed persons in the public sector.

In May a new labor law lowered the requirements for union registration. Under the new law, unions tied to federations are no longer required to maintain a minimum membership of 20 percent of the workers in a bargaining unit. However, independent unions are required to meet the 20 percent membership requirement. By year's end DOLE had not yet issued the implementing regulations for the new law to take effect.

The International Trade Union Confederation (ITUC) and other labor rights advocacy groups expressed concern at killings, abductions, and other attacks on labor leaders and supporters, and urged the government to increase efforts in investigating these attacks. The Center for Trade Union and Human Rights claimed three cases of killings of labor leaders, union members, and supporters during the year, down from 33 in 2006. In October 2006 a labor federation filed a complaint with the International Labor Organization (ILO) Committee on Freedom of Association alleging labor rights violations, including abductions, illegal detentions, and harassment. At year's end the ILO committee's review of the complaint was still ongoing.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively. The labor code provides for this right for employees both in the private sector and in government-owned or controlled corporations. A similar right is afforded to most government workers. Collective bargaining was practiced; however, it is subject to hindrance and union leaders may be subject to reprisal. International labor organizations noted that collective bargaining in the public sector is limited and that the right to strike is banned outright for public sector workers. Through October the number of workers covered by collective bargaining agreements declined to approximately 229,000 (approximately 12 percent of union members and less than 1 percent of the total workforce) from 252,000 in 2006. There are no special laws or exemptions from regular labor laws in SEZs.

Allegations of intimidation and discrimination in connection with union activities are grounds for review before the quasi-judicial National Labor Relations Commission (NLRC) as possible unfair labor practices. Before disputes reach the NLRC, the DOLE provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. The DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

Subject to procedural restrictions, strikes in the private sector are legal; however, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law, the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must have been exhausted. The DOLE secretary may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the secretary decides that the industry involved in the strike is vital to the national interest. Labor rights advocates criticized the government for intervening in labor disputes in sectors that are not vital to the national economy. DOLE reported six strikes involving 915 workers during the year; in 2006 there were 12 strikes involving approximately 1,400 workers.

In June armed men allegedly attacked seven union members on strike in the Cavite Economic Zone and demolished their picket line. At least two of the union members were reportedly injured. The unions of two garment factories in the Cavite Economic Zone launched strikes in September 2006 after management refused to negotiate a collective bargaining agreement. The CHR investigated allegations of illegal dispersal, physical injuries, and food blockades against the economic zone authority and the local police; results of the investigation were pending at year's end.

Although the labor code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to three years, there has never been a conviction under this provision.

Dismissal or threatened dismissal of union members was common. Labor groups alleged that companies in the SEZs used frivolous lawsuits as a means of harassing union leaders.

Labor law applies uniformly throughout the country, including the SEZs; however, local political leaders and officials who govern the SEZs attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. The ITUC in its 2007 *Annual Survey* maintained that the DOLE was unable or unwilling to enforce labor law in the SEZs. A conflict over interpretation of the SEZ law's provisions for labor inspection created further obstacles to the enforcement of workers' rights to organize. DOLE can conduct inspections of local SEZ establishments, although local SEZ directors claimed authority to conduct their own inspections as part of the zones' privileges intended by congress. Hiring often was controlled tightly through SEZ labor centers. Union successes in organizing in the SEZs have been few and marginal in part due to organizers' restricted access to the closely guarded zones and to the rapid turnover of the young, mainly female, staff who worked on short-term contracts in the zones' many electronics and garment factories.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced labor, including forced and compulsory labor by children; however, there were some reports of forced and compulsory labor, particularly by children, mainly in prostitution, drug trafficking, domestic service, and other areas of the informal sector (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 and 18 for such hours and periods of the day as are determined by the DOLE secretary but forbids the employment of persons less than 18 years of age in hazardous or dangerous work. However, child labor remained a common problem, and a significant number of children were employed in the informal sector of the urban economy or as unpaid family workers in rural agricultural areas--some as bonded laborers. The government estimated that there were approximately four million working children, an estimated half of whom were exposed to hazardous working environments, in industries such as quarrying, mining, deep sea fishing, pyrotechnic production, and agriculture. A survey of two municipalities in Bulacan Province found 1,084 children below 17 years of age working in pyrotechnic factories.

Most child labor occurred in the informal economy, often in family settings. The government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the government made attempts to devote more resources to child labor programs this year, government resources remained inadequate.

The government and NGOs implemented programs to prevent the engagement of children in exploitative child labor; they educated communities on child labor and provided counseling and other activities for children. The DOLE and the DepEd worked with NGOs, UNICEF, and the ILO International Program on the Elimination of Child Labor to assist children to return to school. The government also imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. In March the government filed charges against a garment factory in metro Manila for employing 10 child laborers. At year's end the trial had not yet begun. During the year DOLE continued its efforts to remove child worker from hazardous situations, removing 144 minors in 57 operations, compared with 51 operations involving 218 minors in 2006.

e. Acceptable Conditions of Work

The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards set minimum wages, and the highest minimum wage rates were in the National Capital Region, where the minimum daily wage for nonagricultural workers was \$7.62 (362 pesos). The lowest minimum wages were in the ARMM, where the daily agricultural wage was \$4.20 (200 pesos). The regional wage board orders covered all private sector workers except domestic servants and others employed in the service of another person. Boards exempted some employers because of factors such as business size, industry sector, export intensity, financial distress, and level of capitalization. These exemptions excluded substantial numbers of workers from coverage under the law. During the year the regional wage boards granted minimum wage exemptions to 318 establishments out of 421 applications received. Unions have filed complaints about the minimum wage exemption policies.

Violation of minimum wage standards and the use of contract employees to avoid the payment of required benefits were common, including in the government-designated SEZs, where tax benefits were used to encourage the growth of export industries. Many firms hired employees for less than the minimum apprentice rates, even if there was no approved training in their production-line work. The DOLE inspects establishments that employ 10 to 199 workers to determine compliance with core labor standards. Establishments employing 200 or more persons and unionized establishments with collective bargaining agreements are subject to a self-assessment of compliance with labor standards. DOLE provides training and advisory services to enterprises with less than 10 workers to help them comply with core labor standards. During the year 18 percent (4,108 out of 23,313) of commercial establishments inspected by DOLE were not in compliance with the prevailing minimum wage. DOLE acknowledged that the shortage of inspectors made it difficult to enforce the law. In addition to fines, the government also used administrative procedures and moral suasion to encourage employers to rectify violations voluntarily. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

By law the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an eight-hour per day limit. The government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates one day of rest each week. However, there is no legal limit on the number of overtime hours that an employer may require. DOLE conducted only sporadic inspections to enforce limits on workweek hours. During the year DOLE's 208 labor inspectors made 23,313 inspections to check on companies' compliance with general labor and working standards. Labor groups maintained that forced overtime was common. DOLE employment data in 2006 showed that almost one-fourth of employees worked more than 48 hours per week.

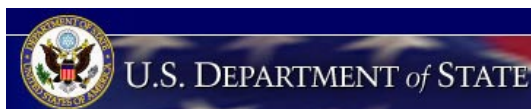
The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with too few inspectors nationwide, local authorities often must carry out enforcement. The DOLE continued a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. During the year DOLE conducted inspections of 3,456 establishments on occupational safety standards compliance. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The government and several NGOs worked to protect the rights of the country's overseas citizens, most of whom were temporary or contract workers. The government placed financial sanctions on and criminal charges against domestic recruiting agencies found guilty of unfair labor practices. Although the Philippine Overseas Employment Administration registered and supervised domestic recruiters' practices successfully, the authorities sometimes lacked sufficient resources to ensure workers' protection overseas. It sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens. They are not allowed to join or form unions.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Samoa

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Samoa is a constitutional parliamentary democracy that incorporates traditional practices into its governmental system. Its population was approximately 187,000. Executive authority is vested in newly elected Head of State Tui Atua Tupua Tamasese Efi, who holds the position for five years. Parliament, elected by universal suffrage, is composed primarily of the heads of extended families, or matai. The most recent parliamentary elections, held in March 2006, were marred by charges of bribery. All 10 by-elections subsequently ordered by the Supreme Court were concluded by February; the Human Rights Protection Party (HRPP) increased its majority and continued to be the only officially recognized party in Parliament. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, some problems remained, including poor prison conditions, local limitations on religious freedom, domestic violence, and discrimination against women and non-matai.

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.

The ombudsman's office continued investigating the 2005 case of police officer Tupou Ainu'u, who was found not guilty of manslaughter in the death of a man in police custody. At year's end no final report had been issued.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices, and the government generally observed these prohibitions in practice. However, a District Court investigation uncovered one cell (called "Cell Nine") at Tafaigata Prison in which inmates were kept naked for a least a week in total darkness with no bedding or sanitary facilities. In press accounts government sources did not deny the cell's existence, and the police commissioner later stated that it would no longer be used.

Prison and Detention Center Conditions

Prison conditions remained poor, especially for male inmates. Some prison facilities were nearly a century old. Only basic provisions were made with respect to food, water, and sanitation. Diplomatic observers reported that each concrete cell held 10 to 15 inmates. Most cells had gravel floors, no toilets, poor ventilation, and almost no lighting. Some juveniles were held with adults. At year's end construction work continued on parts of a new separate facility for juveniles, the Oloamanu Juvenile Center, although the facility held a limited number of juveniles. Physical conditions at the juvenile center were generally better than those for adults, but there were unconfirmed reports of problems with food, clothing, and the water supply.

Inmates were employed in various activities outside prisons, including work in government officials' private residences and companies. Because the government regarded this work as a form of rehabilitation and preferable for the inmates to confinement in prison, the prisoners were not always paid for this work. The assignments reportedly were voluntary and periodically inspected by prison staff.

The government permitted visits by independent human rights observers; however, there were no known requests during the year. The government permitted family members and church representatives to visit prisons every two weeks.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The country has a small national police force and no external defense force. Enforcement of rules and security within individual villages is vested in the fono (Council of Matai).

A commissioner for police and prisons administration is appointed to a three-year term and reports to the minister of police. Corruption and impunity were not significant problems among the police, although there were credible reports of minor instances of bribery, such as bribes to avoid traffic citations. A lack of resources limited police effectiveness.

In October police arrested an assistant police commissioner on charges of indecent assault after two female police officers filed complaints against him alleging attempted rape. The case was pending at year's end.

Arrest and Detention

The Supreme Court issues arrest warrants based on sufficient evidence. The law provides for the right to a prompt judicial determination regarding the legality of detention, and the authorities generally respected this right in practice. Detainees are informed within 24 hours of the charges against them, or they are released. There

was a functioning system of bail. Detainees were allowed prompt access to family members and a lawyer of their choice. If the detainee is indigent, the government provides a lawyer.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

The judiciary consists of the District Court, the Lands and Titles Court, the Supreme Court, and the Court of Appeal. The Court of Appeal, the highest court, has appellate jurisdiction only and can review the rulings of any other court. It is composed of a panel of retired New Zealand judges and sits once a year for several weeks.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. A trial judge examines evidence and determines if there are grounds to proceed. Defendants have the presumption of innocence. Trials are public, and juries are used. Defendants have the right to be present and to timely consultation with an attorney, at public expense if required. Defendants may confront witnesses and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence, and defendants have the right to appeal a verdict.

Many civil and criminal matters were handled by village fono, which varied considerably in their decision-making styles and the number of matai involved in the decisions. The Village Fono Act recognizes the decisions of the fono and provides for limited appeal to the Lands and Titles Court and the Supreme Court. The nature and severity of the dispute determines which court receives an appeal. A further appeal may be made to the Court of Appeal if necessary. According to a 2000 Supreme Court ruling, fono may not infringe upon villagers' freedom of religion, speech, assembly, or association.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The Lands and Titles Court is an independent and impartial court that deals with civil matters, including human rights violations. It hears disputes concerning the use or ownership of land and of matai titles. Within their jurisdictions, other courts can also provide independent and impartial means to redress human rights violations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The laws prohibit such actions, and the government generally respected these prohibitions in practice. However, there is little or no privacy in villages, where there can be substantial societal pressure on residents to grant village officials access without a warrant.

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 generally active and expressed a wide variety of views without restriction. The law stipulates imprisonment for any journalist who, despite a court order, refuses to reveal a confidential source upon request from a member of the public. However, there has been no court case invoking this law.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Although for financial reasons private ownership of computers was relatively uncommon, access to the Internet through Internet cafes was generally available and widely used.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution acknowledges an "independent state based on Christian principles and Samoan custom and traditions"; however, there is no official or state denomination. The law grants each person the right to change religion or belief and to worship or teach religion alone or with others, but in practice the matai often choose the religious denomination of their extended family.

In February a village forbade a Seventh-day Adventist man from conducting religious services in his home. The man appealed to the Lands and Titles Court. The court ruled that he could conduct evening family devotional services, but could not hold weekly Saturday church services unless he obtained consensual agreement from his extended family, which also had traditionally recognized rights to the property. No such consensus had emerged by year's end and weekly services were not conducted.

Also in February, the Ministry of Education ruled that a public high school student who was a member of Jehovah's Witnesses was required to attend school assemblies but was not required to sing the national anthem or otherwise participate. A teacher had rebuked the student for not singing the national anthem during the assemblies.

Societal Abuses and Discrimination

There were no significant reports of societal religious discrimination. There was no organized Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in

practice. However, traditional law governs villages, and village fono regularly banned citizens from village activities or banished citizens from the village for failing to conform to village laws or obey fono rulings. Cases of village banishment are rarely made public. Of those cases that became known during the year, reasons for banishment included murder, rape, adultery, and unauthorized claims to land and matai title. In some cases civil courts have overruled banishment orders. Some banished persons were accepted back into the village after performing a traditional apology ceremony called "ifoga."

The law prohibits 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, but the government has not established a system for providing protection to refugees. The government received no requests during the year for refugee status, asylum, or protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers, but the need did not arise during the year.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

The most recent elections were in March 2006, but they were marred by charges of bribery. As a result of election challenges filed by losing candidates, the Supreme Court ordered 10 by-elections. All the mandated by-elections were conducted and generally considered free and fair. In May Head of State Mailetoa Tanumafili II died, and in June Parliament elected Tui Atua Tamasese Efi as the new head of state.

The law does not prohibit the formation of opposition parties, but there were no officially recognized opposition parties. In November 2006 after internal conflicts and a change of leadership in the Samoa Democratic United Party (SDUP), some SDUP members of Parliament (MPs) left the party, leaving it with fewer than the eight members required for recognition in Parliament. In March the courts refused to overturn the November 2006 decision of the speaker of Parliament to suspend the SDUP's recognition. At year's end the HRPP held 37 seats; independents, including those affiliated with the SDUP, held 12 seats.

While the constitution gives all citizens above age 21 the right to vote and run for office, by social custom candidates for 47 of the 49 seats in Parliament are drawn from the approximately 30,000 matai. Matai are selected by family agreement; there is no age qualification. Although both men and women are permitted to become matai, only 8 percent were women. Matai controlled local government through the village fono, which were open to them alone.

There were four women in the 49-member Parliament. There were three women in the cabinet. Two women served as heads of constitutional offices, four women as chief executive officers (CEOs) of government ministries, and three women as general managers of government corporations.

The political rights of citizens who are not of ethnic Samoan heritage are addressed by the reservation of two parliamentary seats for "at-large" MPs. One at-large cabinet minister and MP was of mixed European-Samoan heritage. Citizens of mixed European-Samoan or Chinese-Samoan heritage were well represented in the civil service.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented the law effectively. Penalties ranged from several months to several years of imprisonment if convicted. There were isolated reports of government corruption during the year.

Public officials were not subject to financial disclosure laws; however, such disclosure was encouraged by codes of ethics applicable to boards of directors of government-owned corporations. The law provides for an ombudsman to investigate complaints against government agencies, officials, or employees, including allegations of corruption. The ombudsman may require the government to provide information relating to a complaint.

In June charges were brought against the dismissed financial controller of the Samoa Kidney Foundation (a branch of the Ministry of Health) for embezzling foundation funds. The case was ongoing at year's end. The ombudsman also reported that the government acted wrongly in 2004 in forcing the resignation of the CEO of the Ministry of Health for corruption, because the factual record revealed no wrongdoing by the CEO.

Under the law government information is subject to disclosure in civil proceedings involving the government, unless the information is considered privileged or its disclosure would harm the public interest.

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.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, disability, language, or social status, and the government generally respected this in practice. However, politics and culture reflected a heritage of matai privilege and power, and members of certain families of high traditional status had some advantages.

Women

The constitution prohibits abuse of women, but common societal attitudes tolerated their physical abuse within the home, and such abuse was common.

Rape is illegal, but there is no legal provision against spousal rape. Many cases of rape went unreported because common societal attitudes discouraged such reporting. In recent years authorities noted a rise in the number of reported cases of rape, as women slowly became more forthcoming with police. Rape cases that reached the courts were treated seriously. The penalties for rape ranged from a minimum of two years' to a maximum of life imprisonment, but a life sentence has never been imposed.

Domestic abuses typically went unreported due to social pressure and fear of reprisal. Village fono typically punished domestic violence offenders, but only if the abuse was considered extreme (i.e., visible signs of physical abuse). Village religious leaders were also permitted to intervene in domestic disputes. When police received complaints from abused women, the government punished the offender, including by imprisonment. Domestic violence is charged as common criminal assault, with terms of imprisonment ranging from several months to one year. The government did not keep statistics on domestic abuse cases specifically but acknowledged the problem to

be one of considerable concern.

The Ministry of Police established a 10-person Domestic Violence Unit, which received reports of domestic abuse and worked in collaboration with nongovernmental organizations (NGOs) that combated domestic abuse. NGO services for abused women included confidential hot lines, in-person counseling, victim support, and shelters.

Prostitution is illegal but was not a major problem. The law does not address sex tourism specifically; however, it was not a problem. The law prohibits sexual harassment; it was not a widespread problem but was believed to be underreported. In June an ombudsman's report found that the general manager of the Samoa Tourism Authority had sexually harassed subordinates; he was later forced to resign.

Women have equal rights under the constitution and statutory law, and the traditional subordinate role of women was changing, albeit slowly, particularly in the more conservative parts of society. The Ministry of Women, Community, and Social Development oversees and helps secure the rights of women. To integrate women into the economic mainstream, the government sponsored numerous programs, including literacy programs and training programs for those who did not complete high school.

A provision of labor law prohibits employment of women between midnight and 6:00 a.m. This regulation was generally observed.

Children

The government made a strong commitment to the welfare of children through the implementation of various youth programs by the Ministry of Women, Community, and Social Development in collaboration with the Ministries of Education and Health. Education is compulsory through age 14; however, the government did not enforce this law. Public education was not free; students were required to pay some school fees. Boys and girls were treated equally and attended school in approximately equal proportions. According to a UN Children's Fund report (based on 2000-2005 data), the net primary school enrollment rate was 90 percent for boys and 91 percent for girls. Most children attended school through junior high school.

Boys and girls had equal access to government-provided medical care. The government provided health care for children at public hospitals for minimal charge. The Ministry of Health and the Samoa Family Health Association both undertook efforts to improve access to medical services by women and children.

Law and tradition prohibit severe abuse of children, but both tolerate corporal punishment. A recent rise in reported cases of child abuse appeared to be due to citizens' increased awareness of the need to report physical, emotional, and sexual abuse of children. The government aggressively prosecuted such cases.

The Ministry of Justice and Courts Administration and the Ministry of Education, in collaboration with NGOs, carried out educational activities to address domestic violence and inappropriate behavior between adults and children and to promote human rights awareness.

Trafficking in Persons

The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

A transnational crimes unit monitors crimes related to trafficking in persons.

Persons with Disabilities

There is no law pertaining specifically to the status of persons with disabilities or regarding accessibility for them. Tradition dictates that families care for persons with disabilities, and this custom was observed widely in practice. There were no reports of discrimination against persons with disabilities in the areas of employment, education, access to health care, or the provision of other state services. Many public buildings were old, and only a few were accessible to persons with disabilities. Most new buildings provided better access, including ramps and elevators in most multistory buildings.

The Ministry of Women, Community, and Social Development has responsibility for protecting the rights of persons with disabilities.

Other Societal Abuses and Discrimination

Sodomy and "indecent between males" are illegal. The government actively enforced the law with regard to such acts involving exploitation of minors, with punishment of up to 14 years in prison if the minor is under 16 years of age. However, these provisions were not actively enforced with regard to consensual homosexual acts between adults. There were no reports of societal violence or discrimination against homosexuals or persons with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

Workers legally have unrestricted rights to establish and join organizations of their own choosing. There were no practical limitations to union membership, and approximately 20 percent of the private sector workforce was unionized. The Public Service Association (PSA) functioned as a union for all government workers, who comprised approximately 80 percent of the paid workforce, excluding the self-employed.

b. The Right to Organize and Bargain Collectively

The law provides workers with the right to organize and bargain collectively, and workers exercised this right in practice. The PSA engages in collective bargaining on behalf of government workers, including bargaining on wages. Arbitration and mediation procedures are in place to resolve labor disputes, although such disputes rarely arose.

The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety, and workers have exercised this right.

Workers in the private sector have the right to strike, but there were no private sector strikes during the year. Most issues related to a 2005 doctors' strike were resolved, with some doctors returning to work and others leaving the country for employment elsewhere. There are no special laws or exemptions from regular labor laws in the sole export processing zone.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, but matai frequently called upon persons, including minors, to work for their villages. Most persons did so willingly; however, the matai may compel those who do not.

d. Prohibition of Child Labor and Minimum Age for Employment

It is illegal to employ children under the age of 15 except in "safe and light work." The Ministry of Labor refers complaints of illegal child labor to the attorney general for enforcement; however, no cases were prosecuted during the year. The law does not apply to service rendered to family members or the matai, some of whom required children to work for the village, primarily on village farms. The extent of this practice varied by village, but it generally did not significantly disrupt children's education.

Children frequently were seen vending goods and food on Apia street corners. The government has not made a definitive determination as to whether this practice violates the country's labor laws, which cover only persons who have a place of employment. Although the practice may constitute a violation of the law, local officials mostly tolerated it.

e. Acceptable Conditions of Work

An advisory commission to the minister of labor sets minimum wages. There were two minimum wages: \$0.80 (WST\$2.00) per hour for the private sector, and \$0.96 (WST\$2.40) for the public sector. Neither provided a decent standard of living for a worker and family unless supplemented by other activities, such as subsistence farming and fishing. Wages in the private sector are determined by competitive demand for the required skills but should not be less than the minimum private-sector wage.

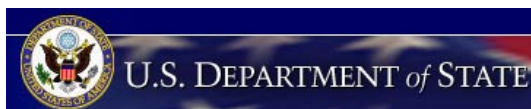
The provisions of the Labor Act cover only the private sector; a separate law, the Public Service Act, covers public-sector workers. Labor laws stipulate a standard work week of no more than 40 hours, or eight hours per day (excluding meal times). For the private sector, overtime pay is specified at time and a half, with double time for work on Sundays and public holidays and triple time for overtime on such days. For the public sector, there is no paid overtime, but compensatory time off is given for overtime work.

The Occupational Safety Hazard Act establishes certain rudimentary safety and health standards for workplaces, which the Ministry of Commerce, Industry, and Labor is responsible for enforcing. The law also covers persons who are not workers but who are lawfully on the premises or within the workplace during work hours. However, independent observers reported that safety laws were not enforced strictly, except when accidents highlighted noncompliance. Work accidents were investigated when reports were received. Many agricultural workers, among others, were inadequately protected from pesticides and other dangers to health. Government education and awareness programs addressed these concerns by providing appropriate training and equipment to agricultural workers for adequate protection from pesticides and other dangers to health. Safety laws do not apply to agricultural service rendered to the matai. While the law does not address specifically the right of workers to remove themselves from dangerous work situations, the commissioner of labor investigates such cases, without jeopardy to continued employment. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.



[BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Singapore

Country Reports on Human Rights Practices - [2007](#)
Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Singapore is a parliamentary republic in which the People's Action Party (PAP), in power since 1959, overwhelmingly dominates politics. The population was approximately 4.6 million, with foreign workers accounting for nearly one-fifth of the total. Opposition parties exist, parliamentary elections take place at regular, constitutionally mandated intervals (most recently in May 2006), and the voting and vote-counting systems are fair and free from tampering; however, the PAP placed formidable obstacles in the path of political opponents. The PAP held 82 of 84 elected parliamentary seats and all ministerial positions. The civilian authorities generally maintained effective control of the security forces.

The government has broad powers to limit citizens' rights and to handicap political opposition, which it used. Caning is an allowable punishment for numerous offenses. The following human rights problems were reported: preventive detention, executive influence over the judiciary, infringement of citizens' privacy rights, restriction of speech and press freedom and the practice of self-censorship by journalists, restriction of freedom of assembly and association, limited restriction of freedom of religion, and some 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, and the government generally respected these prohibitions.

The penal code mandates caning, in addition to imprisonment, as punishment for approximately 30 offenses involving violence, such as rape and robbery, and for nonviolent offenses such as vandalism, drug trafficking, and violation of immigration laws. Caning is discretionary for convictions on other charges involving the use of force, such as kidnapping or voluntarily causing grievous hurt. All women, men over age 50 or under age 16, and anyone determined medically unfit are exempt from punishment by caning. During the year 6,404 convicted persons were sentenced to caning. Approximately 95 percent of caning sentences were carried out.

Prison and Detention Center Conditions

Prison conditions, while Spartan, generally met international standards.

The government did not allow human rights monitors to visit prisons; however, diplomatic representatives were given consular access to citizens of their countries.

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

Civilian authorities maintained effective control over the police force and the armed forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest and Detention

The law provides that, in most instances, arrests are to be carried out after issuance of an authorized warrant; however, some laws, such as the Internal Security Act (ISA), provide for arrests without warrants. Those arrested under warrants must be charged before a magistrate within 48 hours. The majority of those arrested were charged expeditiously and brought to trial. A functioning bail system exists. Those who face criminal charges are allowed counsel; however, there was no access to counsel during an initial arrest and investigation before charges were filed. The Law Society administered a legal aid plan for those who could not afford to hire an attorney.

Some laws--the ISA, the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (the drug act), and the Undesirable Publications Act (UPA)--have provisions for arrest and detention without a warrant or judicial review. The ISA has been employed primarily against suspected security threats. In the past these threats were Communist related; however, in recent years the ISA has been employed against suspected terrorists. The CLA has been employed primarily against suspected organized crime and drug trafficking.

The ISA and the CLA permit preventive detention without trial for the protection of public security, safety, or the maintenance of public order. The ISA gives broad discretion to the minister for home affairs, at the direction of the president, to order detention without filing charges if it is determined that a person poses a threat to national security. The initial detention may be for up to two years and may be renewed without limitation for additional periods of up to two years at a time. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead, detainees may make representations to an advisory board, headed by a supreme court justice, which reviews each detainee's case periodically and must make a recommendation to the

president within three months of the initial detention. The president may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order, but he is not obligated to do so.

At year's end 34 detainees were being held under the ISA as suspected terrorists. Of these detainees, 31 were suspected of belonging to the terrorist group Jemaah Islamiyah (JI), and three were suspected of membership in the Philippines-based Moro Islamic Liberation Front. Between November 2006 and April 2007, four citizens alleged to be JI members were detained under the ISA: Ishak bin Mohamed Noohu (detained in November 2006), Mohamed Hussain bin Saynudin (arrested and detained in February 2007), Mohamed Yassin bin O. P. Mohamed Nooh (arrested and detained in February 2007), and Ibrahim bin Mohamed Noor (arrested and detained in April 2007). On June 8, the government announced that Abdul Basheer Abdul Kader was being detained under the ISA for "plans to pursue militant jihad in Afghanistan." He reportedly became "self-radicalized" by reading jihadist materials on the Internet.

A "religious rehabilitation" program designed to wean detained terrorists from extremist ideologies is in effect, and on June 1, five detainees were released under the program: Mohamed Noor bin Sulaimi, Naharudin bin Sabtu, Nordin bin Parman, and Syed Ibrahim, all held since 2002, and Mohamed Yassin bin O. P. Mohamed Noor, held since February 2007.

In March Jamil bin Ansani, an alleged member of the JI network, was arrested and issued with a restriction order (RO).

At year's end 27 others were on ROs. This number included both released detainees and suspected terrorists who were never arrested. A person subject to an RO must seek official approval for a change of address or occupation, for overseas travel, or for participation in any public organization or activity.

The CLA comes up for renewal every five years. When renewing the CLA in 2004, Parliament amended it to allow taking DNA samples. Under the CLA, the minister for home affairs may order preventive detention, with the concurrence of the public prosecutor, for an initial period of one year, and the president may extend detention for additional periods of up to one year at a time. The minister must provide a written statement of the grounds for detention to the Criminal Law Advisory Committee (CLAC) within 28 days of the order. The CLAC then reviews the case at a private hearing. CLAC rules require that detainees be notified of the grounds of their detention at least 10 days prior to this hearing, in which a detainee may represent himself or be represented by a lawyer. After the hearing the committee makes a written recommendation to the president, who may cancel, confirm, or amend the detention order. However, persons detained under the CLA have recourse to the courts via an application for a writ of habeas corpus. Persons detained without trial under the CLA are entitled to counsel, but they may challenge the substantive basis for their detention only to the CLAC. The CLA was used almost exclusively in cases involving narcotics or criminal organizations and has not been used for political purposes. At the end of the year, 211 persons were detained under the provisions of the CLA. Persons who allege mistreatment while in detention may bring criminal charges against government officials alleged to have committed such acts.

Both the ISA and the CLA contain provisions that allow for modified forms of detention such as curfews, residence limitations, requirements to report regularly to the authorities, limitations on travel, and, in the case of the ISA, restrictions on political activities and association.

The drug act permits detention without trial. Under the drug act, the director of the Central Narcotics Bureau (CNB) also may commit--without trial--suspected drug abusers to a drug rehabilitation center for a six-month period, which is extendable by a review committee of the institution for up to a maximum of three years. More than 640 persons were held in drug rehabilitation centers. Under the Intoxicating Substances Act, the CNB director may order the treatment of a person believed to be an inhalant drug abuser for up to six months. Other sections of the drug act allow for capital punishment or incarceration of persons found guilty of narcotics trafficking offenses.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence; however, in practice laws that limit judicial review permit restrictions on constitutional rights. Some judicial officials, especially supreme court judges, have ties to the ruling party and its leaders. The president appoints judges to the Supreme Court on the recommendation of the prime minister and in consultation with the chief justice. The president also appoints subordinate court judges on the recommendation of the chief justice. The term of appointment is determined by the Legal Service Commission, of which the chief justice is the chairman. Under the ISA and the CLA, the president and the minister for home affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) exclude normal judicial review. These laws provide the government with the power to limit, on vaguely defined national security grounds, the scope of certain fundamental liberties that otherwise are provided for in the constitution.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics. Both this practice and consistent awards in favor of government plaintiffs raised questions about the relationship between the government and the judiciary and led to a perception that the judiciary reflected the views of the ruling party in politically sensitive cases. On August 17, the High Court declared Chee Siok Chin and two other opposition party members bankrupt for failing to pay legal costs of \$15,700 (S\$24,000) stemming from a 2005 case in which they filed suit asking that the High Court find unconstitutional a police action dispersing a protest they had conducted.

The judicial system has two levels of courts: the Supreme Court, which includes the High Court and the Court of Appeal, and the subordinate courts. Subordinate court judges and magistrates as well as public prosecutors are civil servants whose specific assignments are determined by the Legal Service Commission, which can decide on job transfers to any of several legal service departments. The subordinate courts handle the great majority of civil and criminal cases in the first instance. The High Court may hear any civil or criminal case, although it generally limited itself to civil matters involving substantial claims and criminal matters carrying the death penalty or imprisonment of more than 10 years. The Court of Appeal is the highest and final court of review for matters decided in the subordinate courts or the High Court. Supreme court justices may remain in office until the mandatory retirement age of 65, after which they may continue to serve at the government's discretion for brief, renewable terms at full salary. In addition the law provides for Islamic courts whose authority is limited to Islamic family law, which is applicable only to Muslims.

A two-tier military court system has jurisdiction over all military personnel, civilians in the service of the armed forces, and volunteers when they are ordered to report for service. The system handled approximately 450 cases each year. The Military Court of Appeal has jurisdiction to examine an appeal from a person convicted by a subordinate military court. Trials are public, and defendants have the right to be present. An accused individual also has the right to defense representation.

Trial Procedures

The judicial system provides citizens with an efficient judicial process. In normal cases the criminal procedures code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the prosecution or the magistrate. Trials are public and heard by a judge; there are no jury trials. Defendants have the right to be present at their trials and to be represented by an attorney; the Law Society administers a criminal legal aid plan for those who cannot afford to hire an attorney. In death penalty cases, the Supreme Court appoints two attorneys for defendants who are unable to afford their own counsel. Defendants also have the right to question opposing witnesses, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and the right of appeal in most cases. Despite the general presumption of innocence, the drug act stipulates that a person who the prosecution proves has illegal narcotics in his possession, custody, or control shall be assumed to be aware of the substance and places the burden on the defendant to prove otherwise. The same law also stipulates that, if the amount of the narcotic is above set low limits, it is the defendant's burden to prove he did not have the drug for the purpose of trafficking. Convictions for narcotics trafficking offenses carry lengthy jail sentences or the death penalty, depending on the type and amount of the illegal substance.

Persons detained under the ISA or CLA are not entitled to a public trial. In addition, proceedings of the advisory board under the ISA and CLA are not public.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is no differentiation between civil and criminal judicial procedures. The subordinate courts handled the majority of civil cases. Access to the courts is open, and citizens and residents have the right to sue for infringement of human rights. However, there were no known successful attempts to use legal action against the government for human rights violations. In fact, despite its sometimes heavy-handed tactics against the opposition, the government was careful to ensure that its actions were within the constitution and the law.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution does not address privacy rights; remedies for infringement of some aspects of privacy rights are available under statutory or common law. The government generally respected the privacy of homes and families; however, it had a pervasive influence over civic and economic life and sometimes used its broad discretionary powers to infringe on these rights. To prevent housing segregation, the government enforced ethnic ratios in publicly subsidized housing where the majority of citizens lived. Normally the police must have a warrant issued by a court to conduct a search; however, they may search a person, home, or a property without a warrant if they decide that such a search is necessary to preserve evidence. The government has wide-ranging discretionary powers under the ISA, CLA, the drug act, and UPA to conduct searches without a warrant if it determines that national security, public safety and order, or the public interest is at risk. Defendants may request judicial review of such searches.

Law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, have extensive networks for gathering information and conducting surveillance and highly sophisticated capabilities to monitor telephone and other private conversations. No court warrants are required for such operations. It was believed that the authorities routinely monitored telephone conversations and the use of the Internet. It was widely believed that the authorities routinely conducted surveillance of some opposition politicians and other government critics.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and freedom of expression but permits official restrictions on these rights, and in practice the government significantly restricted freedom of speech and freedom of the press. Government intimidation and pressure to conform resulted in self-censorship among journalists; however, there was a moderate level of debate in newspapers and on the Internet on some public issues such as rising income inequality and the role of foreign workers in the country.

Under the ISA the government may restrict or place conditions on publications that incite violence, counsel disobedience to the law, have the potential to arouse tensions in the country's diverse population, or might threaten national interests, national security, or public order. While the ISA has not been invoked in recent years against political opponents of the government, political opposition and criticism remained restricted by the government's authority to define these powers broadly.

Government leaders urged that news media support the goals of the elected leadership and help maintain social and religious harmony. In addition strict defamation and press laws and the government's demonstrated willingness to respond vigorously to what it considered personal attacks on officials sometimes led journalists and editors to moderate or limit what was published.

Citizens do not need a permit to speak at indoor public gatherings outside the hearing or view of nonparticipants, unless the topic refers to race or religion.

On April 13, seven members of the European Union parliament were refused permission to speak at a democracy forum organized by the Singapore Democratic Party (SDP). On August 3, the Ministry of Home Affairs banned as contrary to the "public interest" a previously approved Institute of Southeast Asian Studies public forum on "Society and Sexual Diversity" that included a foreign speaker. The Ministry of Home Affairs stated that "foreigners should refrain from interfering in (the country's) internal affairs."

Government restrictions limit the ability to speak freely at the speakers' corner in a public park. Prospective speakers must be citizens, must show their identification cards, and must register in advance with the police. While it was not necessary to declare speech topics in advance, regulations governing the speakers' corner state that "the speech should not be religious in nature and should not have the potential to cause feelings of enmity, ill will, or hostility between different racial or religious groups."

The government strongly influenced both the print and electronic media. Two companies, Singapore Press Holdings Limited (SPH) and MediaCorp, own all general circulation newspapers in the four official languages--English, Chinese, Malay, and Tamil. MediaCorp is wholly owned by the government investment company. SPH is a private holding company with close ties to the government; the government must approve (and can remove) the holders of SPH management shares, who have the power to appoint or dismiss all directors or staff. As a result, while newspapers printed a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and reporting of sensitive foreign relations issues usually closely reflected government policies and the opinions of government leaders.

Columnists' opinions and letters to the editor expressed a moderate range of opinions on public issues.

Government-linked companies and organizations operated all domestic broadcast television channels and almost all radio stations. Only one radio station, the BBC World Service, was completely independent of the government. Some Malaysian and Indonesian television and radio programming could be received, but satellite dishes were banned, with few exceptions. Cable subscribers had access to seven foreign television news channels and many entertainment channels, including some with news programs; these were not censored.

The Media Development Authority (MDA), a statutory board under the Ministry of Information, Communications, and the Arts (MICA), continued to censor broadcast media, Internet sites, and all other media, including movies, video materials, computer games, and music. Banned publications consisted primarily of sexually oriented materials but also included some religious and political publications. Both MDA and MICA developed censorship standards with the help of a citizen advisory panel. The ISA, the UPA, and the Films Act allow the banning, seizure, censorship, or restriction of written, visual, or musical materials by these agencies if they determine that such materials threaten the stability of the state, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or linguistic animosities. The MDA has the power to sanction broadcasters for airing what it believes to be inappropriate content. All content airing between 6 a.m. and 10 p.m. must be suitable for viewers of all ages.

A substantial number of foreign media operations were located within the country, and a wide range of international magazines and newspapers can be purchased uncensored. However, under the Newspaper and Printing Press Act (NPPA), the government may limit the circulation of foreign publications that it determines interfere with domestic politics. The NPPA requires foreign publications that report on politics and current events in Southeast Asia, with circulation of 300 or more copies per issue, to register, post a \$126,582 (S\$200,000) bond, and name a person in the country to accept legal service. The government has granted exemptions to 19 of the 24 publications to which these requirements could apply. In September 2006 the government banned the *Far Eastern Economic Review* (FEER) for failing to comply with the NPPA. Importation or possession of FEER for sale or distribution was an offense. The ban continued in effect through 2007. Readers could access FEER through the Internet. Newspapers printed in Malaysia cannot be imported.

The government may limit (or "gazette") the circulation of publications. The government also may ban the circulation of domestic and foreign publications under provisions of the ISA and the UPA. The Broadcasting Act empowers the minister for information, communication, and the arts to gazette or place formal restrictions on any foreign

broadcaster deemed to be engaging in domestic politics. Once gazetted, a broadcaster can be required to obtain express permission from the minister to continue broadcasting in the country. The government may impose restrictions on the number of households receiving a broadcaster's programming, and a broadcaster can be fined up to \$63,291 (S\$100,000) for failing to comply.

Under the country's defamation laws, some plaintiffs can easily win substantial judgments for damages and legal costs. Conviction on criminal defamation charges can result in a prison sentence of up to two years, a fine, or both. Threats of defamation actions often persuaded newspapers and others to apologize and pay damages for perceived slights. On October 17, the *Financial Times* apologized on its Web site for a September 29 article that allegedly defamed Prime Minister Lee Hsien Loong, Minister Mentor Lee Kuan Yew, and Temasek Holdings (Private) Limited Chief Executive Officer Ho Ching and agreed to pay (undisclosed) damages. In August 2006 Prime Minister Lee Hsien Loong and Minister Mentor Lee Kuan Yew initiated a defamation suit against the editor and publisher of FEER for an article published in July 2006. In October the Court of Appeal rejected a bid by FEER to be represented by a queen's counsel in the case. The suit continued at year's end.

Critics charged that government leaders used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. The unbroken success of government leaders' suits in the last decade fostered public caution about political speech, prompted a culture of self-censorship within the news media, and inhibited opposition politics. During the last decade, ruling party leaders won suits against opposition politicians for defamation of individual government leaders on several occasions.

Internet Freedom

Although residents generally have unrestricted access to the Internet, the government subjected all Internet content to the same rules and standards as traditional media. Internet service providers (ISPs) are required to ensure that content complies with the MDA's Internet code of practice. The MDA also regulates Internet material by licensing the ISPs through which local users are required to route their Internet connections. The law permits government monitoring of Internet use, and the government closely monitored Internet activities such as blogs and podcasts. The MDA was empowered to direct service providers to block access to Web sites that, in the government's view, undermined public security, national defense, racial and religious harmony, or public morals. Although the MDA ordered ISPs to block 100 specific Web sites that the government considered pornographic, in general the government actually focused on blocking only a small number of sites.

Political and religious Web sites must register with the MDA. In the past the government prosecuted persons for making allegedly racist remarks on the Internet.

Academic Freedom and Cultural Events

All public institutions of higher education and political research have limited autonomy from the government. Although faculty members are not technically government employees, in practice they were subject to potential government influence. Academics spoke and published widely and engaged in debate on social and political issues. However, they were aware that any public comments outside the classroom or in academic publications that ventured into prohibited areas--criticism of political leaders or sensitive social and economic policies or comments that could disturb ethnic or religious harmony or appeared to advocate partisan political views--could subject them to sanctions. Publications by local academics and members of research institutions rarely deviated substantially from government views.

The Films Act bans political advertising using films or videos as well as films directed towards any political purpose. The act does not apply to any film sponsored by the government, and the act allows the MICA minister to exempt any film from the act. On April 10, MICA banned independent filmmaker Martyn See's film *Zahari's 17 Years*, a documentary about political activist Said Zahari who was detained under the ISA for 17 years. MICA declared it to be an illegal political film.

A list of banned films was available on the MDA Web site. Certain films that were barred from general release may be allowed limited showings, either censored or uncensored, with a special rating. In practice censorship standards were significantly relaxed in recent years for live theater performances. Plays with overtly sexual or anti-ruling-party themes have been permitted.

a. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides citizens the right to peaceful assembly but permits Parliament to impose restrictions "it considers necessary or expedient" in the interest of security, public order, or morality; in practice the government restricted this right. Public assemblies of five or more persons, including political meetings and rallies, require police permission; however, citizens do not require permits for some indoor speaking events. Spontaneous public gatherings or demonstrations were virtually unknown.

The government closely monitored political gatherings regardless of the number of persons present. Plain-clothes police officers often monitored political gatherings. On February 13, the High Court ruled that groups of less than five could constitute an assembly--lawful or otherwise--through association. Six Falun Gong practitioners had been distributing pamphlets in two separate groups in front of adjacent shopping centers. The court ruled that as long as there is a "common object", a collective entity can be identified. The six practitioners were fined \$666 (S\$1,000) each for assembling without a permit.

On July 12, the Workers' Party (WP) was refused a permit to hold a public cycling event. The government defended the ban arguing that outdoor gatherings by political parties have the potential to cause public disturbance. Subsequently the Young PAP claimed that its cancellation of two planned outdoor public events was unrelated to the WP ban.

On September 30, a crowd of approximately 150 Burmese nationals and sympathizers protested outside the Burmese embassy. Police advised the protesters that theirs was an illegal public assembly and told them to disperse, but did not otherwise interfere with the protest. On October 8, SDP chief Chee Soon Juan and four others were arrested outside the Presidential Palace after attempting to deliver a petition concerning the government's relationship with the Burmese authorities. In a statement the police distinguished between Chee's willful civil disobedience and the activities of Singaporean and Burmese nationals in Singapore concerned about the situation in Burma who organized to express their sympathies lawfully.

Freedom of Association

Most associations, societies, clubs, religious groups, and other organizations with more than 10 members are required to register with the government under the Societies Act. The government denied registration to groups that it believed were likely to have been formed for unlawful purposes or for purposes prejudicial to public peace, welfare, or public order. The government has absolute discretion in applying criteria to register or dissolve societies. During the year the Registry of Societies received 284 registration applications of which four were denied.

The government prohibits organized political activities except by groups registered as political parties or political organizations. This prohibition limits opposition activities disproportionately and contributes to restricting the scope of unofficial political expression and action. The PAP was able to use nonpolitical organizations, such as residential committees and neighborhood groups, for political purposes far more extensively than opposition parties. Political parties and organizations are subject to strict financial regulations, including a ban on receiving foreign donations. Due to laws regulating the formation of publicly active organizations, there were few nongovernmental organizations (NGOs) apart from nonpolitical organizations such as religious groups, ethnically oriented organizations, and providers of welfare services.

c. Freedom of Religion

The constitution provides for freedom of religion; however, the government restricted this right in some circumstances. The constitution provides that every citizen or person in the country has the right to profess, practice, or propagate his religious belief so long as such activities do not breach any other laws relating to public order, public health, or morality.

All religious groups were subject to government scrutiny. These groups must be registered under the Societies Act. The Maintenance of Religious Harmony Act (MRHA) gives the government the power to restrain leaders and members of religious groups and institutions from carrying out political activities, "exciting disaffection against" the government, creating "ill will" between religious groups, or carrying out subversive activities. Violation of a restraining order issued under the MRHA is a criminal offense. The act also prohibits judicial review of its enforcement or of any possible denial of rights arising from its implementation.

The government played an active but limited role in religious affairs. It did not tolerate speech or actions, including those of a religious nature, that it interpreted as adversely affecting racial and religious harmony. The government may issue restraining orders barring participation in activities adversely affecting religious harmony. The Presidential Council for Religious Harmony reviews such orders and makes recommendations to the president on whether to confirm, cancel, or alter a restraining order. The Presidential Council for Minority Rights examines all pending legislation to ensure it is not disadvantageous to a particular group, reports to the government on matters that affect any racial or religious community, and investigates complaints. The government maintains a relationship with the Muslim community through the Islamic Religious Council (MUIS), which was established under the Administration of Muslim Law Act. The MUIS advises the government on the Muslim community's concerns, drafts a weekly approved sermon, maintains regulatory authority over Muslim religious matters, and oversees a fund financed by voluntary payroll deductions and used for mosque-building and social and educational purposes.

Under the Societies Act, the government deregistered and banned meetings of Jehovah's Witnesses in 1972 and in 1982 dissolved the Unification Church. While the government did not outlaw the profession or propagation of the beliefs of Jehovah's Witnesses and does not arrest members merely for being believers, the result of deregistration was to make meetings of Jehovah's Witnesses illegal. The community numbered approximately 2,000, and members of Jehovah's Witnesses continued to refuse to perform national military service. The government also banned all written materials published by the Jehovah's Witnesses' publishing affiliates, the International Bible Students Association and the Watch Tower Bible and Tract Society. A person in possession of banned literature can be fined up to \$1,333 (S\$2,000); for holding a meeting, the fine can be as high as \$2,667 (S\$4,000). Unlike in previous years, there were no arrests of Jehovah's Witnesses reported during the year.

Missionaries, with the exception of members of Jehovah's Witnesses and representatives of the Unification Church, were permitted to work, publish, and distribute religious texts. However, while the government did not prohibit evangelical activities, in practice it discouraged activities that could upset intercommunal relations, such as unsolicited public proselytizing.

Societal Abuses and Discrimination

There were no significant reports of societal religious discrimination or of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; and the government generally respected these rights in practice; however, it limited them in a few respects. For example, citizens' choice of where to live sometimes was limited by the government's legal requirement for ethnic balance in publicly subsidized housing, in which the majority of citizens lived. The government required all citizens and permanent residents over the age of 15 to register and to carry identification cards. The government may refuse to issue a passport and did so in the case of former ISA detainees. Under the ISA a person's movement may be restricted. According to official press releases, at year's end there were 27 suspected terrorists subject to such restrictions.

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

The right of voluntary repatriation was extended to holders of national passports. The government actively encouraged citizens living overseas to return home or at least to maintain active ties with the country. A provision of the law allows for the loss of citizenship by citizens who resided outside the country for more than 10 consecutive years, but it was not known to have been used.

On April 1, immigration authorities prevented SDP Secretary General Chee Soon Juan from leaving the country. Chee had been declared bankrupt in February 2006 for failing to pay \$333,333 (S\$500,000) in libel damages to Minister Mentor Lee Kuan Yew and Senior Minister Goh Chok Tong. On February 26, the High Court found Chee guilty of attempting to leave the country without permission while in bankruptcy and fined him \$2,667 (S\$4,000). Chee did not pay the fine and served three weeks in jail.

Men are required to serve 24 months of national service upon turning 18 years of age. They also are required to undergo reserve training up to the age of 40 (for enlisted men) or 50 (for officers). Male citizens with national service reserve obligations are required to advise the Ministry of Defense if they plan to travel abroad. Boys age 13 to 16-1/2 years are issued passports that are valid for five years but are required to obtain exit permits for trips longer than three months. From the age of 16-1/2 until the age of enlistment, male citizens are granted one-year passports and are required to apply for exit permits for travel that exceeds three months. A bond of \$47,468 (S\$75,000) is needed for exit permits of two years or more for both age groups.

The law stipulates that former members of the Communist Party of Malaya (CPM) residing outside the country must apply to the government to be allowed to return. They must renounce communism, sever all organizational ties with the CPM, and pledge not to engage in activities prejudicial to the country's internal security. In addition the law requires them to submit to an interview by the Internal Security Department and to accept any restrictive conditions imposed on them.

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, to which Singapore is not a party. The government has established a system for providing protection to refugees on a case-by-case basis. In practice, the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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. Opposition parties can contest elections, and the voting and vote-counting systems are fair and free from tampering; however, the PAP, which has held power continuously and overwhelmingly for more than four decades, has used the government's extensive powers to place formidable obstacles in the path of political opponents.

Elections and Political Participation

Following the May 2006 elections, the PAP (having captured 66.6 percent of the vote) held 82 of 84 elected seats; the opposition Singapore Democratic Alliance (13.1 percent) and the Workers' Party (16.3 percent) each held one seat. The opposition continued to criticize what it described as PAP abuse of its incumbency advantages to handicap opposition parties. The PAP maintained its political dominance in part by developing voter support through effective administration and its record in bringing economic prosperity to the country, and in part by manipulating the electoral framework, intimidating organized political opposition, and circumscribing political discourse

and action. The belief that the government might directly or indirectly harm the employment prospects of opposition supporters inhibited opposition political activity; however, there were no confirmed cases of such retaliation. As a result of these and other factors, opposition parties were unable to seriously challenge the ruling party. The PAP claimed that the lack of an effective opposition was due to disorganization, weak leadership, and absence of persuasive alternative policies.

The country has a parliamentary system in which the majority party in Parliament has the authority to constitute the government, which is headed by a prime minister. The parliamentary term is for no more than five years after the first sitting of Parliament following a general election. Parliament may be dissolved early by presidential proclamation. Elections must be held within three months of Parliament's dissolution. The constitution allows a parliamentary committee to select and the president to appoint nominated members of parliament (MPs) to serve 2-1/2-year terms without facing election. The constitution requires at least three opposition MPs. If fewer than three are elected, the government will appoint a "nonconstituency" MP, who is the opposition candidate who obtains the highest share of the vote without winning a seat. Nonconstituency MPs and nominated MPs can participate in parliamentary debate and can vote on some, but not all, types of legislation.

The PAP has an extensive grassroots system and a carefully selected, highly disciplined membership. The establishment of government-organized and predominantly publicly funded Community Development Councils (CDCs) further strengthened the PAP's position. The CDCs promote community development and cohesion and provide welfare and other assistance services. The PAP dominates the CDCs even in opposition-held constituencies and has threatened to withdraw publicly funded benefits.

The PAP completely controlled key positions in and out of government, influenced the press and courts, and limited opposition political activities. Often the means were fully consistent with the law and the normal prerogatives of a parliamentary government, but the overall effect (and many argued the ultimate purpose) was to disadvantage and weaken political opposition. Since 1988 the PAP changed all but nine single-seat constituencies into group representational constituencies (GRCs) of five to six parliamentary seats, in which the party with a plurality wins all of the seats. According to the constitution, such changes are permitted to ensure ethnic minority representation in Parliament; each GRC candidate list must contain at least one Malay, Indian, or other ethnic minority candidate. These changes made it more difficult for opposition parties, all of which had very limited memberships, to fill multimember candidate lists.

Although political parties legally were free to organize, they operated under the same limitations that applied to all organizations, and the authorities imposed strict regulations on their constitutions, fundraising, and accountability. There were 24 registered political parties in the country; however, only six of these were active. Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hindered attempts by opposition parties to rent office space in government housing blocks or to establish community foundations. In addition government influence extended in varying degrees to academic, community service, and other NGOs.

The duties of the president are largely ceremonial. Nonetheless, the president has significant budget oversight powers, as well as some powers over civil service appointments and internal security affairs. The law provides for a popularly elected president to be elected for a six-year term from among candidates who are approved by a constitutionally prescribed committee selected by the government. In 2005 the committee decided that the PAP-endorsed incumbent, President S.R. Nathan, was the only qualified candidate out of four applicants. The election was cancelled, and Nathan was inaugurated for a second term. The government placed significant obstacles in the way of opposition political figures' presidential candidacies. For example, opposition members were much less likely to satisfy the requirement that candidates have experience in managing the financial affairs of a large institution, since many of the country's large institutions were government run or linked to the government.

Voting is compulsory, and 95 percent of eligible voters voted. There is no legal bar to the participation of women in political life; women held 17 of the 84 elected parliamentary seats. There were three female ministers of state, although none of cabinet rank. Three of the 14 supreme court justices were women.

There are no restrictions in law or practice against minorities voting or participating in politics; they actively participated in the political process and were well represented throughout the government, except in some sensitive military positions. Malays made up approximately 15 percent of the general population and held approximately the same percentage of elected seats in Parliament. Indians made up approximately 9 percent of the general population and held approximately 11 percent of the elected seats in Parliament. There were three ethnic Indian ministers and one ethnic Malay minister. Three of the 14 members of the Supreme Court were ethnic Indian; there were no Malays on the court.

Government Corruption and Transparency

There were no reports of government corruption during the year, and the government actively prosecuted officials involved in corruption. During the year, the government raised salaries of ministers, MPs, and senior civil servants. The prime minister receives \$2,575,342 (S\$3,760,000) per year, the most junior minister in the cabinet earns \$1,328,767 (S\$1,940,500), and an MP is paid \$154,110 (S\$225,000).

There are no laws that specifically provide for public access to government information; however, significant amounts of information were available on government Web sites.

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

Efforts by independent organizations to investigate and evaluate government human rights policies faced the same obstacles as those faced by opposition political parties. NGOs were subject to registration under the Societies Act. Some domestic NGOs criticized restrictions on human rights or suggested changes that would relax or remove restrictions. NGOs working in the area of trafficking in persons described cooperation from the authorities as "excellent."

There is a Presidential Council on Minority Rights that monitors pending legislation for anything possibly disadvantageous to minorities.

The government permitted international human rights organizations to observe human rights-related court cases.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution states that all persons are equal before the law and entitled to the equal protection of the law, and the government generally respected these provisions in practice; there is no explicit provision granting equal rights for women and minorities. Mindful of the country's history of intercommunal tension, the government took measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or gender.

Women

The government enforced the law against rape, which provides for imprisonment of up to 20 years and caning for offenders. Under the law rape can be committed only by a man, and spousal rape is not a crime; however, husbands who force their wives to have intercourse can be prosecuted for other offenses, such as assault. During the year nine persons were prosecuted for rape; there was one conviction and eight persons were awaiting trial. The Ministry of Education and the police both carried out programs aimed at preventing rape.

The law criminalizes domestic violence and intentional harassment; however, violence or abuse against women occurred. A victim of domestic violence can obtain court orders barring the spouse from the home until the court is satisfied that the spouse ceased aggressive behavior. The number of court orders for protection against violent family members increased in recent years, in part because the definition of violence includes intimidation, continual harassment, or restraint against one's will. The law prescribes mandatory caning and a minimum imprisonment of two years for conviction on any charge of "outraging modesty" that caused the victim fear of death or injury.

The press gave prominent coverage to instances of abuse or violence against women. There were several organizations that provided assistance to abused women. The Association of Women for Action and Research operated a hot line that offered counseling and legal advice. The Family Protection and Welfare Service, an office of the Ministry of Community Development, Youth, and Sports, documented physical and psychological abuse and provided counseling and other support services to abused women. The Star Shelter accepted children, women, and men and can accommodate up to 30 persons. In 2006 there were more than 2,600 applications for Personal Protection Orders, 70 percent of which were filed by wives for protection against their husbands.

Prostitution itself is not illegal; however, public solicitation, living on the earnings of a prostitute, and maintaining a brothel are illegal. The authorities periodically carried out crackdowns on solicitation for prostitution and arrested and deported foreign prostitutes, particularly when their activities took place outside informally designated red-light areas. In practice police unofficially tolerated and monitored a limited number of brothels; prostitutes (the great majority of whom were foreign and working illegally) in such establishments were required to undergo periodic health checks and carry a health card.

There are no specific laws prohibiting stalking or sexual harassment; however, the Miscellaneous Offenses Act and laws prohibiting insults to modesty were used successfully to prosecute these offenses. Sexual harassment was not considered a significant problem.

Women accounted for 54 percent of civil service employees. They enjoyed the same legal rights as men, including civil liberties, employment, commercial activity, and education. The Women's Charter gives women, among other rights, the right to own property, conduct trade, and receive divorce settlements. Muslim women enjoyed most of the rights and protections of the Women's Charter. For the most part, Muslim marriage falls under the administration of the Muslim Law Act, which empowers the Shari'a (Islamic law) court to oversee such matters. The laws allow Muslim men to practice polygyny, although requests to take additional spouses may be refused by the Registry of Muslim Marriages, which solicits the views of an existing wife or wives and reviews the financial capability of the husband. During the year there were 54 applications for polygynous marriage, and 18 applications were approved, constituting just 0.44 percent of Muslim marriages.

Both men and women have the right to initiate divorce proceedings; however, in practice women faced significant difficulties that often prevented them from pursuing proceedings. This included the lack of financial resources to obtain legal counsel. Men do not have the right to seek alimony from their wives in cases of divorce or separation.

During the year women constituted 54.3 percent of the labor force and were well represented in many professions. The percentage of women between ages of 30 and 54 in the workforce increased from 60.3 percent in 2000 to 68.3 percent in 2006, with 44.7 percent of women 55 and over employed. However, women held few leadership positions in the private sector and no ministerial positions in the government. Women were overrepresented in low-wage jobs such as clerks and secretaries. Salaries for women ranged upwards from 66 percent of men's salaries depending on the occupational grouping. In some occupations women earned more than their male counterparts. Observers noted that the wage differential was smaller in professional jobs and that wage disparities could be attributed in part to differences in average educational levels and work experience.

Children

The government demonstrated a strong commitment to children's rights and welfare through well-funded systems of public education and medical care, and access was equal for all children. Six years of public (or government-recognized private) education is compulsory for all children. Virtually 100 percent of children were enrolled through grade six, and the dropout rate for secondary school was low. The Children and Young Persons Act created a juvenile court system and established protective services for orphaned, abused, and "troubled" children, and those with disabilities. The Ministry of Community Development, Youth, and Sports (MCYS) worked closely with the National Council for Social Services to oversee children's welfare cases. Voluntary organizations operated most of the homes for children, while the government funded from 50 to 100 percent of living expenses and overhead, as well as expenses for special schooling, health care, and supervisory needs.

Some child prostitution occurred. During the year authorities arrested 60 female prostitutes under the age of 18, the same number as in 2006. There is no legal prohibition on commercial sex with "consenting" partners ages 16 and 17. The law criminalizes consensual sex between a minor female (under 16) and a male and prescribes punishment for the male participant of up to five years in prison and a fine of up to \$6,667 (S\$10,000). The authorities have the power to detain persons under age 21 who are believed to be engaged in prostitution, as well as to prosecute those who organize or profit from prostitution, who bring women or girls to the country for prostitution, or who coerce or deceive women or girls into prostitution.

The MCYS sponsored activities promoting children's causes, including family stability. The ministry and several NGOs focused on keeping fathers involved in their children's lives and on preventing child abuse.

Trafficking in Persons

The law prohibits trafficking in persons; however, the country was a destination for women and girls trafficked from Southeast Asia and from China for prostitution. A small number of foreign domestic workers faced seriously abusive labor conditions that amounted to involuntary servitude. Some women from Thailand, the Philippines, China, and Indonesia who traveled to the country voluntarily for prostitution or other work were deceived or coerced into sexual servitude.

Three major laws govern trafficking and prostitution: the Women's Charter, the Children and Young Persons' Act, and the penal code. Trafficking in women and children, regardless of whether it is related to prostitution, is punishable by up to five years' imprisonment, a \$6,667 (S\$10,000) fine, and caning. Traffickers could be prosecuted under provisions governing kidnapping, abduction, slavery, and forced labor, which carry maximum punishments of 10 years' imprisonment and a fine. Convicted traffickers could be found guilty of violating more than one law. There was no specific campaign to combat or prevent the use of fraud or coercion to recruit foreign women as prostitutes, although some persons were prosecuted and punished for crimes involving such acts.

There were no reports of any official involvement in trafficking in persons.

In practice successful investigation and prosecution of trafficking in persons required that victims remain in or return to the country to testify. Police urged victims to remain in the country until a case was prosecuted, and generally they did; some abused domestics who left were brought back to testify. Victims did not receive government assistance during this period or at other times and sometimes were not granted permission for alternative employment and were dependent on support from their embassy. Laws prohibiting the harboring, aiding, or abetting of illegal immigrants could hamper assistance to trafficking victims by putting NGOs in the position of harboring a victim who has no legal status; however, the authorities did not appear to investigate or prosecute such assistance.

The authorities notified embassies of the arrest of nationals, including for prostitution-related offenses, and allowed consular access. Prostitutes rarely contacted embassies voluntarily, unless detained for solicitation or immigration offenses during police sweeps. However, victims of crimes, including domestics alleging abuse, sometimes requested and received assistance from their embassies.

Persons with Disabilities

The government maintained a comprehensive code on barrier-free accessibility; this established standards for facilities for persons with physical disabilities in all new buildings and mandated the progressive upgrading of older structures. There was no legislation addressing equal opportunities for persons with disabilities in education or employment; however, the National Council of Social Services, in conjunction with various voluntary associations, provided an extensive job training and placement program for persons with disabilities. The government also ran vigorous campaigns to raise public awareness of issues confronting persons with disabilities and the services available to them. A tax deduction of up to \$66,667 (S\$100,000) was available to employers to defray building modifications to benefit employees with disabilities. The first wheelchair accessible buses were introduced in 2006.

Informal provisions in education permitted university matriculation for the visually impaired, the hearing impaired, and for students with other physical disabilities. There

were 21 special education schools that enrolled more than 4,340 students. One out of every six primary schools and one out of every seven secondary schools was equipped with full-handicap facilities. The government provided funds for six childcare centers to take in 60 children with special needs.

The government allowed a tax deduction of up to \$2,333 (S\$3,500) per individual for families caring for a sibling, spouse, or child with a disability. Mental and physical disabilities were treated in the same way. Press coverage of the activities and achievements of persons with disabilities was extensive, and discrimination or abuse of persons with disabilities did not appear to be a problem.

National/Racial/Ethnic Minorities

Ethnic Malays constituted approximately 15 percent of the population. The constitution acknowledges them as the indigenous people of the country and charges the government to support and to promote their political, educational, religious, economic, social, cultural, and language interests. The government took steps to encourage greater educational achievement among Malay students as a key to economic advancement. However, ethnic Malays have not yet reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays remained underrepresented at senior corporate levels and, some asserted, in certain sectors of the government and the military. This reflected their historically lower educational and economic levels, but some argued that it also was a result of employment discrimination. The government issued guidelines that call for eliminating language referring to age, gender, or ethnicity in employment advertisements; restrictive language pertinent to job requirements, such as "Chinese speaker" remains acceptable. These guidelines were generally followed.

The Presidential Council on Minority Rights examined all pending bills to ensure that they were not disadvantageous to a particular group. It also reported to the government on matters that affected any racial or religious community and investigated complaints.

Government policy enforced ethnic ratios for publicly subsidized housing to prevent ethnic or racial ghettos.

Other Societal Abuses and Discrimination

Some individuals with HIV/AIDS claimed that they were socially marginalized and faced employment discrimination if they revealed they were suffering from the disease. The government discouraged discrimination, supported initiatives that countered misperceptions about HIV/AIDS, and praised employers that welcomed workers with HIV/AIDS. Consensual homosexual sex is illegal but in practice was not prosecuted.

Section 6 Worker Rights

a. The Right of Association

The constitution provides all citizens the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act and by labor and education laws and regulations. Under these laws any group of 10 or more persons is required to register with the government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel or government employees. The Amalgamated Union of Public Employees was declared exempt from these provisions, and its scope of representation expanded over the years to cover all public sector employees except the most senior civil servants.

The Trade Unions Act restricts the right of trade unions to elect their officers and whom they may employ. Foreigners and those with criminal convictions may not hold union office or become employees of unions. However, the minister of manpower could grant exemptions. The Trade Unions Act limits the objectives for which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes. In 2006 the national labor force consisted of approximately 2.59 million workers, nearly 500,000 of whom were represented by 69 unions. Almost all of the unions (which represented virtually all of the union members) were affiliated with the National Trade Union Congress (NTUC), an umbrella organization with a close relationship with the government.

The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. The NTUC's secretary general, Lim Swee Say, a PAP MP, was a member of the cabinet as minister in the Prime Minister's Office. Young PAP MPs with no union experience were often elected to leadership positions in the NTUC or a member union. NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. While the NTUC is financially independent of the PAP, the two shared a common ideology and worked closely with management in support of nonconfrontational labor relations. The NTUC is free to associate regionally and internationally.

b. The Right to Organize and Bargain Collectively

Collective bargaining was a normal part of labor-management relations in the industrial sector. The tripartite Industrial Arbitration Court (IAC) must certify collective agreements before they go into effect. The IAC could refuse certification at its discretion on the ground of public interest. Union members cannot reject collective agreements negotiated between their union representatives and the employer. Transfers and layoffs were excluded from the scope of collective bargaining. However, in practice employers consulted with unions on both issues, and the Tripartite Panel on Retrenched Workers issued guidelines calling for early notification to unions of layoffs.

Workers in "essential services" are required to give 14 days' notice to an employer before striking, and there is a prohibition on strikes by workers in the water, gas, and electricity sectors. Other workers have the legal right to strike but rarely did so. No specific laws prohibit retaliation against strikers. The law provides that before striking, 51 percent of unionized workers must vote in favor of the strike by secret ballot, as opposed to the more common practice of 51 percent of those participating in the vote.

Most disagreements were resolved through informal consultations with the Ministry of Manpower. If conciliation fails, the disputing parties usually submit their case to the IAC, which is composed of representatives from labor and management and chaired by a judge. In limited situations the law provides for compulsory arbitration, which has not been used since 1980. Besides these labor dispute mechanisms and the close working relationship and shared views among labor, management, and the government, the maintenance of labor peace has been a product of high economic growth rates, regular wage increases, and a high degree of job mobility in a virtual full-employment economy.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The government enforced the Employment Act, which prohibits employment of children under the age of 12. Restrictions on the employment of children between the ages of 12 and 16 are rigorous and fully enforced. Children under the age of 14 generally are prohibited from employment in the industrial sector. Exceptions include family enterprises; children may work in a business in which only members of the same family are employed. A child age 12 or older may be employed in light work, subject to medical clearance. Employers must notify the commissioner of labor within 30 days of hiring a child between the ages of 14 and 16 and attach a medical certification of the child's fitness for employment. The incidence of children in permanent employment was low, and abuses were almost nonexistent. The exploitation of 16- and 17-

year-old children in prostitution was not criminalized.

Ministry of Manpower regulations prohibit night employment of children and restrict industrial work for children between the ages of 14 and 16 to no more than seven hours a day, including the hours spent in school. Children may not work on commercial vessels, with moving machinery, on live electrical apparatus lacking effective insulation, or in any underground job. The minister of manpower effectively enforced these laws and regulations.

e. Acceptable Conditions of Work

There are no laws or regulations on minimum wages or unemployment compensation. Agreements between management and labor were renewed every two to three years, although wage increases were negotiated annually. The National Wages Council, a group composed of labor, management, and government representatives, issued yearly guidelines on raises and bonus pay that serve as the starting point for bargaining agreements. Subject to negotiation in each enterprise, up to 10 percent of salaries were considered "variable" each month, allowing companies to eliminate that portion of pay if there were financial problems. The labor market generally offered good working conditions and relatively high wages, which provided a decent standard of living for a worker and family.

The Employment Act sets the standard legal workweek at 44 hours and provides for one rest day each week.

The Ministry of Manpower effectively enforced laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, were implemented to reduce the frequency of job-related accidents. While workers have the right under the Employment Act to remove themselves from a dangerous work situation, their right to continued employment depended upon an investigation of the circumstances by the Ministry of Manpower.

Because of a domestic labor shortage, approximately 600,000 foreign workers were employed legally, constituting approximately 30 percent of the total work force. There were no reliable estimates of the number of foreigners working illegally. Most foreign workers were unskilled laborers and household servants from other Asian countries. Foreign workers faced no legal wage discrimination; however, they were concentrated in low-wage, low-skill jobs and were often required to work long hours. Most foreign construction workers live on worksites in substandard conditions.

Although the great majority of the approximately 150,000 maids (mainly from the Philippines, Indonesia, and Sri Lanka) worked under clearly outlined contracts, their low wages, dependence on their employers for food and lodging, and relative isolation made them vulnerable to mistreatment, abuse, and labor conditions that amounted to involuntary servitude. The authorities fined or imprisoned employers who abused maids. On August 17, a housewife was convicted of slapping her maid and was fined \$2,000 (S\$3,000). In May a woman pleaded guilty to three counts of maid abuse and was sentenced to three weeks in jail. On April 18, a woman employer who abused her maid was sentenced to 10 weeks in jail.

Debates continued about how to prevent abuse of maids. In February 2006 the Ministry of Manpower launched a demerit points system that penalizes employment agencies for violating government regulations. The accumulated points are shown on the ministry's Web site to help potential employers identify errant agencies. Agencies with too many demerits face license suspension. The Ministry of Manpower sets the minimum age for maids at 23 and requires all maids to show that they had eight years of formal education before allowing them to enter the country. All new maids and new employers of maids must undergo mandatory training on maids' rights and responsibilities. Maids must take a written entrance exam that covers topics such as safety and English comprehension.

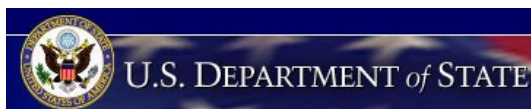
Most maids worked six days per week from early morning until late in the evening. Effective November 2006 the Ministry of Manpower requires an employer to deposit a maid's salary directly into her bank account if she requests it. The ministry also regularly distributed pamphlets in four different languages alerting maids to their rights. In September 2006 Employment Agencies Singapore, a nongovernment agency that accredits the country's approximately 500 maid agencies, implemented a new standard employment contract for maids that provides a compulsory day off each month or cash compensation.

Maids often had to set aside most or all of their wages for the first several months of employment to reimburse their placement agents. Work permits for low-wage foreign workers could be cancelled if a worker applied to marry or married a citizen or permanent resident.

The Employment Act protects foreign workers such as the many employed in the construction industry; however, domestic servants are not covered by the act and are not eligible for limited free legal assistance from the government. However, the Ministry of Manpower offered conciliation services for all employees, foreign or local. The Foreign Workers Unit of the ministry provided free advisory and mediation services to foreign workers experiencing problems with employers. The government allowed complainants to seek legal redress and operated a hot line for maids. In December 2006 a migrant workers advocacy group and a telephone company established a help line to advise migrant workers in distress. In the first year the hot line received 2,800 calls, 95.5 percent of which were general inquiries.



[BACK TO TOP](#)



Solomon Islands

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

The Solomon Islands is a constitutional multiparty parliamentary democracy with a population of approximately 566,000. Parliamentary elections held in April 2006 were considered generally free and fair, although there were incidents of vote buying. On December 13, Prime Minister Manasseh Sogavare's coalition government lost a parliamentary vote of no confidence, and on December 20, Parliament elected Derek Sikua as prime minister. The Regional Assistance Mission to the Solomon Islands (RAMSI), a multinational police-centered force organized by Australia, arrived in the country in 2003 at the government's invitation to assist in restoring law and order and rebuilding the country's institutions following a period of violent conflict between the Malaitan and Guadalcanalese ethnic groups from 1998 to 2003. RAMSI continued its assistance during the year. The civilian authorities generally maintained effective control of the security forces; however, relations between RAMSI and the Sogavare government were increasingly strained after the controversial July appointment of Julian Moti, wanted by Australia on child sex offense charges, as attorney general. In December the Sikua government dismissed Moti and deported him to Australia.

The government generally respected the human rights of its citizens, but there were problems in some areas. Human rights problems included lengthy pretrial detention, government corruption, and violence and discrimination against women and minorities.

RESPECT FOR HUMAN RIGHTS

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

Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

During the year a former cabinet minister was released from custody due to lack of evidence related to his alleged participation in rioting in Honiara following the April 2006 elections. Earlier in 2006 he had been released on bail after being charged with, among other things, being an accomplice to murder; those charges also were dropped.

On May 10, the High Court acquitted two men charged with the 2004 murder of Adam Dunning, an Australian Federal Police officer attached to RAMSI who was shot and killed while on patrol in Honiara. In the same proceeding, two other defendants were acquitted of the 2004 attempted murder of two additional RAMSI police officers, from Tonga and Nauru, respectively. The judge cited lack of sufficient evidence in both cases.

On August 24, former Guadalcanal Liberation Front leader Harold Ke'ke was convicted of murder for ordering the killings of seven men in 2002 and sentenced to an additional life term, to be served concurrently with a 2005 life sentence imposed for the killing of Father Augustine Geve in 2002.

Disappearance

There were no reports of politically motivated disappearances.

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no confirmed reports of such practices by the police during the year. There were a few allegations by detainees that they were mistreated by police during questioning, but they often lacked substantiating evidence.

Since its arrival in 2003, RAMSI apprehended and charged persons allegedly responsible for human rights abuses and other criminal acts. More than 240 persons, including approximately 40 police officers, Ke'ke, and other militants, were arrested. Most of those arrested had been tried by year's end, although some cases were still pending.

Prison and Detention Center Conditions

Prison conditions generally met international standards, and the government permitted visits by independent human rights observers, including the International Committee of the Red Cross (ICRC). The ICRC also facilitated visits by family members of some prisoners.

Arbitrary Arrest and Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

A commissioner who reports to the minister of police heads the Royal Solomon Islands Police (RSIP) force of approximately 1,050 members. This force was supported by 250 RAMSI officers, who served in line positions and in logistical and finance support. In February Fijian national Mohammed Jahir Khan was appointed as the new police commissioner.

While the police were more effective under RAMSI, the RSIP continued to be weak in investigation and reporting. The police service has an inspection unit to monitor police discipline and performance. Police corruption and impunity were not serious problems during the year. In July a commission of inquiry reported its findings concerning the April 2006 post-election riot. The commission concluded that the police were not adequately prepared and that a police riot squad should have been on standby to deal with possible civil unrest.

Arrest and Detention

The law provides for a judicial determination of the legality of arrests. Detainees generally were informed promptly of the charges against them and have the right to counsel. The Public Solicitor's Office provided legal assistance to indigent defendants. Detainees had prompt access to family members and to counsel. Officials found to have violated civil liberties were subject to fines and jail sentences. There was a functioning system of bail. However, delays in adjudication of the large number of cases before the courts resulted in lengthy pretrial detention for some detainees. During the year the authorities appointed more magistrates and High Court judges and completed two new High Court buildings. These developments assisted in reducing the number of backlogged cases.

Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. However, the July appointment of controversial Attorney General Julian Moti, who was wanted in Australia on child molestation charges, raised concerns on the part of NGOs, the bar association, and the public about the independence of the judiciary, until the new government removed him from office in December.

The judicial system consists of the High Court, the Court of Appeals, and magistrates' courts. RAMSI expanded the public solicitor's staff to 27, of whom 13 were foreign nationals. The number of public prosecutors increased to 13, including nine foreign nationals.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trial procedures normally operated in accordance with British common law, with a presumption of innocence, access to attorneys, and the right to access government-held evidence, confront witnesses, and appeal convictions. Judges conduct trials and render verdicts; there are no juries. Accused persons are entitled to counsel, and an attorney was provided at public expense for indigent defendants facing serious criminal charges.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters; local courts and magistrates' courts have civil jurisdiction. In addition the constitution provides that any person whose rights or freedoms have been contravened may apply directly to the High Court for redress.

Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

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.

Individuals were allowed to criticize the government publicly and privately without reprisal. The government did not attempt to impede criticism. However, there were reports of intimidation and evidence of threats from criminal elements against individuals who criticized the government.

The independent media were active and expressed a wide variety of views without restriction.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. In practice cost factors and lack of infrastructure limited public access to the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly, and the government generally respected this right in practice. Demonstrators must obtain permits, which the government generally granted.

Freedom of Association

The constitution provides for freedom of association, but at times the government restricted this right. The government has outlawed the principal militant groups. Other groups associated freely, and a good governance oversight group, the Civil Society Network, continued to raise issues of concern with the government.

Freedom of Religion

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

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and the government did not use it. Native-born citizens may not be deprived of citizenship on any grounds.

Protection of Refugees

Although party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a system for providing protection to refugees. The government did not grant refugee status or asylum during the year. In practice the government provided protection against refoulement, the return of persons to a country where there was reason to believe they feared persecution. The government cooperated with the Office of the UN High Commissioner for Refugees in assisting refugees and asylum seekers.

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

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

Elections and Political Participation

The April 2006 national parliamentary elections were regarded as generally free and fair, although there was evidence of vote buying. In April 2006 rioting broke out in Honiara immediately following the election of Snyder Rini as prime minister. Rini resigned, and in May 2006 Parliament elected Manasseh Sogavare as prime minister. On December 13, Sogavare's government lost a vote of no confidence, and on December 20, Parliament elected former education minister and opposition candidate Derek Sikua as prime minister.

Political parties could operate without restriction, but they were institutionally weak, with frequent shifts in political coalitions and unstable parliamentary majorities.

Male dominance in government limited the role of women. There were no women in the 50-member Parliament. Five women served as permanent secretaries in the Sogavare government.

There were two minority (non-Melanesian) members in Parliament.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. Government corruption and impunity in both the executive and legislative branches continued to be serious problems. In May 2006 Prime Minister Sogavare appointed Charles Dausabea and Nelson Ne'e to the cabinet, although they had been arrested for their roles in the April 2006 riot. Both were reportedly released on medical grounds, and on October 11, a court dismissed their criminal case due to insufficient evidence.

On July 10, Prime Minister Sogavare appointed Julian Moti as attorney general. The Australian government sought Moti, an Australian national, on child sex offense charges. The then Solomon Islands police commissioner arrested Moti in October 2006 for illegally entering the country; however, a court subsequently dismissed those charges. The political opposition and NGOs strongly criticized the appointment, and the opposition leader asserted that the government had manipulated the justice system to obtain dismissal of the immigration charges against Moti. The government denied the allegation. On September 5, the government announced its rejection of an Australian request for Moti's extradition, which it characterized as politically motivated. In December the new Sikua government removed Moti from his post and deported him to Australia.

In July Ezekiel Alebua, a former Guadalcanal premier and former prime minister, was convicted of embezzlement of provincial government funds and sentenced to 42 months in prison. On September 24, the High Court overturned the July conviction of former finance minister Francis Zama on corruption charges. Zama was appointed minister of justice and legal affairs. In November Sogavare announced the intention to switch ministerial positions between Zama and Treasury Minister Darcy Lilo. Lilo and several additional ministers and other Members of Parliament (MPs) resigned from the government in protest and called for Sogavare's resignation, leading to Parliament's December 13 ouster of Sogavare as prime minister.

At year's end a government appeal was still pending before the High Court in the cases of a former East Honiara MP and a former cabinet minister charged in 2004 and 2005, respectively, with official corruption involving the granting of certificates of naturalization to Chinese nationals. A court acquitted both on the basis of insufficient evidence, and the government appealed the verdicts.

In November a magistrate's court found MP and former prime minister Allan Kemakeza guilty of intimidation, larceny, and demanding money with menace in connection with a 2002 attack by a group of men on a Honiara law firm that owned shares in the country's national bank. Kemakeza was accused of ordering the attack to intimidate Australian partners of the firm into leaving the country. On December 6, the court fined Kemakeza \$1,072 (SI\$7,500) and sentenced him to five months' imprisonment, reduced to two months. At year's end Kemakeza was appealing the prison sentence.

Public officials were subject to financial disclosure laws under the leadership code of conduct. The Ombudsman Commission was responsible for combating government corruption.

No law provides for public access to government information. In practice the government generally was responsive to inquiries from the media 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 somewhat cooperative and responsive to their views.

The constitution provides for an ombudsman, with the power to subpoena and to investigate complaints of official abuse, mistreatment, or unfair treatment. While the ombudsman's office has potentially far-ranging powers, it was limited by a shortage of resources. Appointment of a new ombudsman was nullified due to complaints from the Governor General's Office, and a court appeal by the ombudsman designate was pending at year's end.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides that no person--regardless of race, place of origin, color, or disability--shall be treated in a discriminatory manner with respect to access to public places. The constitution further prohibits any laws that would have discriminatory effects and provides that no person should be treated in a discriminatory manner by anyone acting in an official capacity. Despite constitutional and legal protections, women remained the victims of discrimination in the male-dominated society.

Unemployment was high, and there were limited job opportunities for persons with disabilities.

Women

The law does not specifically address domestic violence; however, there are provisions against common assault and rape. Violence against women, including rape and domestic abuse, remained a serious problem. Among the reasons cited for the failure to report many incidents of abuse were pressure from male relatives, fear of reprisals, feelings of shame, and cultural taboos on discussion of such matters.

The maximum penalty for forced rape is life imprisonment. Spousal rape is not a crime. Following RAMSI's arrival, rape charges were brought against a number of persons. As part of a new police curriculum, officers received specialized training on how to work with rape victims. The police have a sexual assault unit, staffed mostly by female officers, to combat the problem. The unit was well received by the public; women felt more comfortable reporting abuses.

Although statistics were unavailable, incidents of domestic violence appeared to be common. In the rare cases of domestic abuse that were reported, victims often dropped charges before the court appearance, or the case was settled out of court. The magistrates' courts dealt with physical abuse of women as with any other assault, although prosecutions were rare. On August 24, the Solomon Islands National Council of Women (NCW) reportedly appealed to the government to introduce tougher laws against domestic violence. NGOs conducted awareness campaigns on family violence during the year. There were two church-run facilities for abused women and an NGO-supported family center that provided counseling, legal assistance, and other support services for women.

Prostitution is illegal, but the statutes were not enforced. There is no law specifically against sex tourism, although such offenses could be prosecuted under laws against prostitution. There were some press reports of sex tourism during the year.

Sexual harassment is not illegal and was a problem.

The law accords women equal legal rights, including the right to own property. However, women were limited to customary family roles, and this situation prevented women from taking more active roles in economic and political life. A shortage of jobs also inhibited the entry of women into the work force. The majority of women were illiterate; this was attributed in large part to cultural barriers. The NCW and other NGOs attempted to make women more aware of their legal rights, including voting rights, through seminars, workshops, and other activities. The government's Women's Development Division also addressed women's issues.

Children

Within the limits of its resources, the government was committed to the welfare and protection of children. During the year major foreign assistance continued to bolster the educational system, but education was not compulsory, and the high cost of school fees severely limited attendance at secondary and higher institutions. A higher percentage of boys than girls attended school, particularly at the higher grade levels. According to a UN Children's Fund report (based on 2000-2005 data), net primary school enrollment rates were 80 percent for boys and 79 percent for girls. All medical care for children was free, and boys and girls had equal access to government-provided care; however, a lack of resources seriously limited its quality and availability.

The law grants children the same general rights and protections as adults, and there are laws designed to protect children from sexual abuse, child labor, and neglect. Children generally were respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services, although some cases of child abuse were reported. Virtually no children were homeless or abandoned. However, there was an increase in reported cases of incest.

Both boys and girls may legally marry at age 15, and the law permits marriage at age 14 with parental and village consent, but marriage at such young ages did not appear to be common.

Trafficking in Persons

The law prohibits trafficking in persons for labor or sexual exploitation. There were no confirmed reports that persons were trafficked to, from, or within the country, but there were anecdotal reports that young women were trafficked internally, and from China and several Southeast Asian countries, for the purpose of sexual exploitation on foreign ships and in logging camps.

Persons with Disabilities

There is no law or national policy on persons with disabilities, and no legislation mandates access to buildings for such individuals. Their protection and care is left to the extended family and NGOs. A disability center in Honiara assisted persons with disabilities in finding employment; however, with high unemployment countrywide and few jobs available in the formal sector, most persons with disabilities, particularly those in rural areas, did not find work outside of the family structure.

The Ministry of Home Affairs is responsible for protecting the rights of persons with disabilities.

The country had one educational facility for children with disabilities, which was supported almost entirely by the Red Cross. An education unit at the College of Higher Education, staffed by Australian volunteers, trained teachers in the education of persons with disabilities. Such training was compulsory for all student teachers at the college. Persons with mental disabilities were cared for within the family structure; there were very limited government facilities for such persons. The Kilufi Hospital in Malaita operated a 10-bed ward for the treatment of psychiatric patients.

National/Racial/Ethnic Minorities

The country comprises more than 27 islands with approximately 70 language groups. Many islanders see themselves first as members of a clan, next as inhabitants of their natal island, and only third as citizens of their nation. Tensions and resentment between the Guadalcanalese and the Malaitans on Guadalcanal culminated in violence beginning in 1998. The presence of RAMSI greatly reduced ethnic tension between the two groups, and the Peace and Reconciliation Ministry organized reconciliation ceremonies. However, underlying problems between the two groups remained, including issues related to jobs and land rights.

There was societal discrimination against ethnic Chinese. The April 2006 riots were directed almost exclusively against Chinese business interests. Australians were also targets of discrimination and threats of violence.

Other Societal Abuses and Discrimination

Same-sex relationships are illegal, and persons engaged in same-sex relationships were often the subject of societal discrimination. While there were fewer than 200 confirmed HIV/AIDS cases, there were reports that HIV-positive individuals were often disowned by their families.

Section 6 Worker Rights

The Right of Association

The constitution implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights, and workers exercised them in practice. Only an estimated 10 percent of the population participated in the formal sector of the economy. According to the chief of trade unions, approximately 55 percent of employees in the public sector and 25 percent of those in the private sector were organized.

The Right to Organize and Bargain Collectively

The law provides for the right to organize and to bargain collectively, and unions exercised these rights. Wages and conditions of employment were determined by collective bargaining, usually at the level of individual firms. Disputes between labor and management that cannot be settled between the two sides are referred to the Trade Disputes Panel (TDP) for arbitration. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

The law permits strikes. Private-sector disputes usually were referred quickly to the TDP for arbitration, either before or during a strike. In practice the small percentage of the work force in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating.

In July teachers went on strike to protest the government's failure to implement certain pay and other benefits agreed upon in January. In August the strike was settled after the Treasury Department cleared all payments to the teachers. At year's end a standoff continued between the National Union of Workers and the Russell Islands Plantation Estate, and estate workers were still on strike.

The law protects workers against antiunion activity, and there were no areas where union activity was officially discouraged.

There are no export processing zones.

Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children, except as part of a court sentence or order; however, there were some reports of internal trafficking in young women for purposes of sexual exploitation.

Prohibition of Child Labor and Minimum Age for Employment

The law forbids labor by children under the age of 12, except light agricultural or domestic work performed in the company of parents. Children under age 15 are barred from work in industry or on ships; those under age 18 may not work underground or in mines. The commissioner of labor is responsible for enforcing child labor laws, but few resources were devoted to investigating child labor cases. Given low wages and high unemployment, there was little incentive to employ child labor.

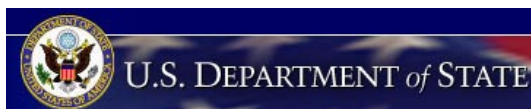
Acceptable Conditions of Work

The minimum wage rate is \$0.20 (SI\$1.50) per hour for all workers except those in the fishing and agricultural sectors, who receive \$0.17 (SI\$1.25). The legal minimum wage did not provide a decent standard of living for an urban family living entirely on the cash economy. However, most families were not dependent solely on wages for their livelihoods.

The law regulates premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to six days per week. There are provisions for maternity leave and for premium pay for overtime and holiday work.

Both an active labor movement and an independent judiciary provided enforcement of labor laws in major state and private enterprises. The commissioner of labor, the public prosecutor, and the police are responsible for enforcing labor laws; however, they usually reacted to complaints rather than routinely monitoring adherence to the law. The extent to which the law was enforced in smaller establishments and in the subsistence sector was unclear. Safety and health laws appeared to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

 [BACK TO TOP](#)



Thailand

Country Reports on Human Rights Practices - 2007

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Thailand is a constitutional monarchy with a population of more than 65 million. The king is revered and exerts strong informal influence. The interim prime minister, appointed by military leaders of the September 2006 coup, who called themselves the Council for National Security (CNS), continued to govern together with a cabinet consisting mostly of technocrats. A royal command on January 1 convened a Constitutional Drafting Assembly, whose members were chosen by the CNS, to draft a new constitution. On August 19, a majority of voters approved the new constitution in a referendum that observers generally considered free and fair. On December 23, the interim government held multiparty elections for the lower house of Parliament in which the People's Power Party, led by Samak Sundaravej, won a plurality of seats. The election process was generally viewed as free and fair, but there were widespread allegations of vote buying. The interim civilian authorities appointed by the September 2006 coup leaders generally maintained effective control of the security forces, although the military continued to play a role in maintaining internal security.

The interim constitution in force until August 24 did not provide citizens the right to change their government; however, it established a process to draft a new constitution that restored this right. Security forces continued at times to use excessive force against criminal suspects and also committed or were connected to extrajudicial, arbitrary, and unlawful killings. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, many of whom were held in overcrowded and unsanitary conditions. The interim government maintained some limits on freedom of speech, freedom of the press, and freedom of assembly that were imposed following the coup. The longstanding practice of bringing defamation suits encouraged self-censorship by the media and nongovernmental organizations (NGOs). Human rights workers, particularly those focusing on the violence in the south, reported harassment and intimidation. The country remained a source, transit, and destination for trafficking in persons for a variety of purposes, including indentured servitude, forced labor, and prostitution. Members of hill tribes without proper documentation continued to face restrictions on their movement, could not own land, and were not protected by labor laws.

Violence by ethnic Malay separatist insurgents in the southern part of the country against symbols and representatives of government authority as well as against civilians resulted in hundreds of killings in the provinces of Narathiwat, Yala, Pattani, and Songkhla. There were also reports of abuses by security forces. The government maintained the 2005 emergency decree for these provinces, giving police and civilian authorities significant powers to restrict certain basic rights, delegating certain internal security powers to the armed forces, and providing security forces broad immunity from prosecution. A separate martial law, which the military declared in September 2006 following the coup and which provided a broader range of powers to the military alone, also remained in effect throughout the country until January 26, when it was lifted in 41 provinces; however, martial law remained in force in 20 of the country's 76 provinces and portions of 15 other provinces.

RESPECT FOR HUMAN RIGHTS

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

Arbitrary or Unlawful Deprivation of Life

There were no confirmed reports that the government or its agents committed any politically motivated killings; however, security forces continued to use excessive, lethal force against criminal suspects and committed or were connected to numerous extrajudicial, arbitrary, and unlawful killings, including killings by security force personnel acting in a private capacity.

According to the Ministry of Interior's Investigation and Legal Affairs Bureau, during the year 751 persons died in prison or police custody, 52 due to the actions of police officers. Authorities attributed most of the deaths to natural causes.

On March 22, four unidentified men killed Nopphon Chaiwichit and injured his daughter in Nakhon Si Thammarat Province after Nopphon accused Michai Nokkaew, a police officer in the province, of involvement in the disappearance of his wife's son-in-law and her daughter in 2003 and 2006, respectively. At year's end an investigation was ongoing, but no individuals had been arrested. According to the police, Michai remained on active duty in the police force.

Villagers in Phang Na Province alleged that on April 20, a police lieutenant colonel shot and killed Thinnawut Phumuda and Phatphong Sisamut after a disagreement at an entertainment complex. At year's end prosecutors had not filed charges.

On December 15, an Interior Ministry security official in Mae Hong Son Province reportedly shot and killed Aie Oo, a Karenni refugee, following heightened tensions between refugees and government officials at the Ban Nai Soi refugee camp. At year's end an investigation was ongoing, but no one had been arrested.

In January public prosecutors declared there was insufficient evidence to prosecute Napintorn Srisunpang, a former senator charged with planning the May 2006 shooting of former member of Parliament Kopkul Nopamornbodee. At year's end court proceedings against the five accused gunmen were ongoing.

There were no developments in the Justice Ministry's investigations regarding the extrajudicial killings of at least 1,300 persons in the three-month "War on Drugs" campaign in 2003 conducted during the Thaksin government (2001-06). In March the Royal Thai Police (RTP) established a committee to review the killings. In May the committee publicly stated that it had identified 1,541 cases to investigate. In August the Justice Ministry established an independent commission chaired by a former attorney general to investigate the killings.

There were no developments in the cases of the March 2006 killing of land rights activist Saharat Suramit, the August 2006 killing of Democrat Party activist Charan lamphaibun, or the October 2006 killing of Narathiwat village headman and human rights activist Muhammad Danai Tanyeenoo.

No progress was reported in the investigations of the December 2006 bomb attacks in Bangkok and Nonthaburi, in which three persons were killed and 32 injured.

In February a provincial court acquitted the alleged planner of the 2005 killing of Worayut Wuthaphanit, a candidate for the Nong-ri Tambon Administration Organization chairmanship, while sentencing the gunmen, who had pleaded guilty, to life imprisonment. On March 20, two of the five persons accused of killing Thiwa Phakpuppha, a Thai Rak Thai Party activist in Ayutthaya Province, were convicted of murder and sentenced to life imprisonment; the other three were acquitted. The two convicted individuals appealed the verdict, and the case was pending at year's end. There were no developments with regard to other 2005 campaign period killings.

According to the Thailand Mine Action Center, there were no reported landmine casualties during the year.

Disappearance

There were no reports of politically motivated disappearances. In contrast with 2006, there were no confirmed reports that individuals disappeared after being questioned by security officials in the southern provinces.

On July 24, unknown individuals abducted Anukorn Waithanomsak, an assistant to a leader of the United Front of Democracy Against Dictatorship (UDD), a group that led rallies in opposition to the September 2006 coup and the new constitution. He was reportedly kidnapped at gunpoint, beaten, threatened, and restrained overnight in an abandoned building before freeing himself. The UDD alleged that members of the military were involved in the abduction.

The government continued to investigate cases in which the Thaksin government was suspected in the disappearance of alleged southern insurgents from previous years; however, at year's end no individuals were charged in connection with reported disappearances of suspected insurgents.

Human rights organizations and legal advocacy groups noted some progress in the investigation of the 2004 robbery and abduction of Muslim attorney and human rights activist Somchai Neelaphajit, but they complained of the slow pace of the government investigation into his disappearance. In early January the National Counter-Corruption Commission (NCCC) established a subcommittee to investigate a 2004 police torture case that NGOs hoped would reveal additional evidence regarding the disappearance of Somchai, who had represented the alleged victims in the case. At year's end the appeal of police Major Ngern Thongsuk, convicted on January 12 of coercion for his role in forcing Somchai into a car, was pending in court. Human rights NGOs alleged that Ngern remained on duty, but the police stated that Ngern had been terminated. The Ministry of Justice's Department of Special Investigations continued to investigate Somchai's disappearance. The Supreme Administrative Court dismissed a March complaint against the RTP filed by Somchai's wife, accusing the police of failing to take disciplinary action against the officers accused of involvement in Somchai's disappearance.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution specifically prohibits such practices. Nevertheless, NGOs and legal organizations continued to report that members of the police occasionally tortured and beat suspects to obtain confessions. There were newspaper reports of numerous cases in which citizens accused police of using brutality. Investigations were undertaken in many of the cases, including several in which the accused police officers were suspended pending the results of internal investigations.

The media reported that a noncommissioned military officer received medical attention for injuries that he sustained on January 23 while being interrogated by the police in Lop Buri Province. Police suspected the officer of involvement in the December 2006 Bangkok bombings.

There were no developments in an April 2006 suit filed by Sakhon Khamto against police who allegedly beat her to force a confession while in police custody.

The National Human Rights Commission (NHRC) closed an investigation into the complaint that in 2005 a police officer in Tak Province forced his way into a home, threatened and beat an older woman, and tried to rape an 18-year-old Burmese migrant worker. The NHRC stated that the victims could not identify their attacker from pictures of police working in the area.

Prison and Detention Center Conditions

Prison conditions were poor. Prisons and detention centers were overcrowded, with a population of approximately 167,000 inmates in facilities designed for 112,000 prisoners. Sleeping accommodations were insufficient, medical care was inadequate, and communicable diseases were widespread in some prisons. The corrections department employed 21 full-time doctors, 347 full-time nurses, and eight full-time dentists. There were also 23 part-time doctors to supplement the permanent medical staff in 19 prisons. Seriously ill prisoners at times were transferred to provincial or state hospitals.

Prison authorities sometimes used solitary confinement of not more than three months to punish male prisoners who consistently violated prison rules or regulations, although the Department of Corrections maintained that the average confinement did not exceed one month. They also used heavy leg irons to control prisoners who were deemed escape risks and for prisoners serving life sentences or facing the death penalty.

On April 23, approximately 500 juvenile detainees rioted, reportedly due to rivalries between two gangs at a Nakhon Sawan juvenile detention facility that held approximately 1,200 detainees but was designed to hold only 500. Officials stated that overcrowding could have been a factor in the rioting, which led to the death of one juvenile detainee. In addition, one juvenile detainee and at least five guards were injured, and the facility was partially damaged. An investigation into the incident resulted in the transfer of 200 detainees to other detention facilities, which prison officials declared was intended to separate the rival groups.

Approximately 25 percent of the prison population consisted of pretrial detainees, who were not segregated from the general prison population. Men, women, and children often were held together in police station cells pending indictment. Separate facilities for juvenile offenders were available in all provinces, but in some locations juveniles were detained with adults.

Conditions in immigration detention centers (IDCs) remained poor. Immigration detention facilities were administered by the Immigration Police Bureau, which reported to the Office of the Prime Minister, and were not subject to many of the regulations that governed the regular prison system. There were credible reports that guards physically abused detainees in some IDCs. Overcrowding and a lack of basic medical care continued to be serious problems.

International observers reported deteriorated conditions for detainees in Bangkok's Suan Phlu IDC. Observers alleged that detainees had been sexually and physically abused while in detention. There were reports that detainees, including children, were not permitted to exercise at some facilities. Provincial authorities also admitted that overcrowding existed at the Mae Sai IDC in Chiang Rai.

Access to prisons was not restricted, and the government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC). ICRC representatives were allowed to meet prisoners without third parties present and could make repeated visits. However, at year's end the military had not replied to ICRC requests to visit military detention facilities in the four southernmost provinces, where detainees had allegedly been mistreated. In addition, on April 20, the government announced that the Office of the UN High Commissioner for Refugees (UNHCR) would no longer be given access to detainees at the Suan Phlu IDC or the Suvarnabhumi Airport Detention Center in Bangkok.

d. Arbitrary Arrest or Detention

The constitution specifically prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. In September 2006 the coup leaders decreed martial law, which gave the military authority to detain persons without charge for a maximum of seven days. Martial law was in effect throughout the country until January 26, when it was lifted in 41 provinces, but it remained in force in all of 20 and portions of 15 of the country's 76 provinces.

The 2005 emergency decree covering the southern provinces grants authorities the power to detain suspects for up to 30 days without charge and make searches and arrests without warrants.

Role of the Police and Security Apparatus

The RTP is under the direct supervision of the prime minister and a 20-member police commission. The RTP consisted of approximately 215,000 officers in 10

geographic regions. The police commissioner general is appointed by the prime minister and subject to cabinet and royal approval. The border patrol police have special authority and responsibility in border areas to combat insurgent or separatist movements. The interim civilian authorities maintained authority over the police and other security forces.

Corruption remained widespread among police officers. Police officials suggested that low pay made them susceptible to bribes. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. There were also reports that some police officers were involved in facilitating prostitution and trafficking in women and children, in particular by facilitating the passage of victims through police checkpoints on the border with Burma in the northern provinces.

Complaints of police abuse can be filed directly with the superior of the accused police officer, the Office of Inspector General, or the police commissioner general. The NHRC, Law Society of Thailand, NCCC, and Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsman.

When the police department receives a petition, an internal investigation committee first takes up the matter and may temporarily suspend the officer during the investigation. Various administrative penalties exist, and serious cases can be referred to the criminal court. The police department reported that 255 officers were charged with criminal offenses between January and August 2006. Of these, 97 were charged with murder or attempted murder. During the year the NHRC received approximately 100 complaints of police abuse.

Procedures for investigating suspicious deaths, including deaths occurring in police custody, require that the prosecutor, a forensic pathologist, and a local administrator participate in the investigation and that in most cases family members have legal representation at the inquests. However, these procedures often were not followed. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrests.

Arrest and Detention

With few exceptions, the law requires police to obtain a warrant from a judge prior to making an arrest. In practice the system for issuing arrest warrants was subject to misuse by police officers who provided false evidence to courts to obtain arrest warrants. By law persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. The law provides for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that local police often conducted interrogations without providing access to an attorney. Lawyers working in the southern provinces reported that under the emergency decree they were denied adequate access to detained clients, and some individuals in the southern provinces reported they were denied permission to visit detained family members. Foreign detainees sometimes were pressured to sign confessions without the benefit of a competent translator. The Ministry of Justice provided an attorney to indigent detainees at public expense.

Under normal conditions the law requires police to submit criminal cases to prosecutors for the filing of court charges within 48 hours of arrest, with extensions of up to three days permitted. Prosecutors may seek court permission to extend detentions for additional periods (up to a maximum of 84 days for the most serious offenses) to conduct investigations. Laws and regulations place offenses for which the maximum penalty is less than three years under the jurisdiction of the district courts, which have different procedures. In these cases police are required to submit cases to public prosecutors within 72 hours of arrest. Lawyers reported that police rarely brought cases to court within the 48-hour period. According to the Law Society of Thailand, pretrial detention of criminal suspects for up to 60 days was common. Unlike in 2006, there were no reports that Burmese activists were arrested and held on immigration violation charges.

The law provides defendants the right to bail, and the government generally respected this right. However, some human rights groups reported that police frequently either did not inform detained suspects of their right to bail or refused to recommend bail after a request was submitted.

Under martial law the military had the authority to detain persons without charge for a maximum of seven days. On January 20, a joint military and police force, citing martial law, arrested and detained 18 persons in connection with the December 2006 Bangkok bombings. An additional suspect was arrested on January 23. The suspects were released on January 26, but police charged one of them with offenses unconnected with the bombings.

On several occasions authorities detained individuals protesting the September 2006 coup. On March 15, police detained five anticoup protesters and charged them with obstructing officials in their duties and refusing to obey officials' orders. They were subsequently released on bail. At year's end the case was under review at the criminal court. On July 7, a joint police-military force in Chiang Rai arrested anticoup activist Sombat Boonngarmanong after he spoke at a public event, charged him with violating martial law and agitating for public disorder, and detained him for 24 hours at the Mengrai Maharaj military base before dropping the charges against him. On July 26, police arrested nine UDD leaders, charging them with instigating unrest and resisting orders from authorities in connection with a protest in front of the residence of Privy Councilor Prem Tinsulanonda on July 22 that subsequently turned violent. Police used tear gas to disperse the protest, in which approximately 200 persons, including 77 police officers, reportedly were injured. The detained leaders were released on bail. According to the UDD, at year's end prosecutors had not filed charges.

Amnesty

On April 12, the king pardoned Oliver Jufer, a foreign citizen sentenced to 10 years' imprisonment on lese majeste charges. Jufer confessed to having sprayed black paint on photographs of the king on March 30 in Chiang Mai. On December 10, the king pardoned or reduced the sentences of approximately 25,000 prisoners as part of a royal amnesty marking his 80th birthday.

e. Denial of Fair Public Trial

The new constitution provides for an independent judiciary. Although the judiciary generally was regarded as independent, it was subject to corruption and outside influences. According to human rights groups, the lack of progress in several high-profile cases involving alleged abuse by the police and military diminished the public's trust in the justice system and discouraged some victims of human rights abuses (or their families) from seeking justice.

The civilian judicial system has three levels of courts: courts of first instance, courts of appeal, and a supreme court. The new constitution reestablished an independent constitutional court that, under the provisions of the interim constitution, had been replaced by a constitutional tribunal composed of justices from the Supreme Administrative Court and the Supreme Court of Justice. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law. Islamic (Shari'a) courts hear only civil cases concerning Muslims.

Trial Procedures

There is no trial by jury. A single judge decides trials for misdemeanors; two or more judges are required for more serious cases. The new constitution provides for a prompt trial, although a large backlog of cases remained in the court system. While most trials are public, the court may order a closed trial, particularly in cases involving national security, the royal family, children, or sexual abuse. Under the new constitution, justices nominated to the Supreme Administrative Court are confirmed by the Senate and a judicial commission consisting of 10 court judges and three officials appointed by the Senate and the Council of Ministers; procedures were undefined under the interim constitution. All other judges are career civil servants whose appointments are not subject to parliamentary review.

The law provides for the presumption of innocence. In ordinary criminal courts, defendants enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program provided free legal advice to the poor, but indigent defendants were not provided with counsel at public expense automatically. The court is required to appoint an attorney in cases where the defendant disputes the charges, is indigent, or is a minor, as well as in cases where the possible punishment is more than five years' imprisonment or death. Most free legal aid came from private groups, including the Law Society of Thailand and the Thai Women Lawyers Association. There is no discovery process, so lawyers and defendants do not have access to evidence prior to the trial. The law provides for access to courts or administrative bodies to seek redress, and the government generally respected this right.

Several NGOs expressed concern over the lack of adequate protection for witnesses, particularly in cases involving alleged wrongdoing by the police. The Office of Witness Protection in the Ministry of Justice had limited resources and primarily played a coordinating role. In most cases witness protection was provided by the police. Witnesses, lawyers, and activists involved in cases of alleged police abuse reported that protection was inadequate and that they were intimidated by the police sent to provide protection.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The law provides for access to courts and administrative bodies to seek redress in civil matters, and the government generally respected this right.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The interim constitution, by reference, prohibited such actions with some exceptions. The new constitution specifically prohibits such actions, and the government generally respected these prohibitions in practice. With a few exceptions, including crimes in progress, police are required to obtain a warrant from a court prior to conducting a search. The law provides standardized procedures for issuing warrants. Martial law gives military forces the authority to conduct searches without a warrant, and this authority was used on some occasions during the year.

The emergency decree covering the southern provinces also allows authorities to make searches and arrests without warrants. The Law Society of Thailand received multiple complaints from persons in the south claiming that security forces abused this authority; however, the decree provides security forces broad immunity from prosecution. At year's end both the emergency decree and martial law were in force in the southernmost provinces.

There were reports that police conducted warrantless searches for narcotics in villages in the northern provinces, although officials sometimes cited martial law as a pretext for the search. Warrantless searches are permitted in cases in which there is reasonable suspicion and an urgent search is deemed necessary.

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

Citing martial law, in early January military and police officials searched 18 locations in Bangkok and surrounding provinces for evidence relating to the December 2006 Bangkok bombings.

In Bangkok on July 18, police and military officials without warrant confiscated posters in front of former senator Prathip Ungsongtham Hata's residence; the posters, which belonged to Hata, contained messages critical of the new constitution. Eyewitnesses reported that the soldiers destroyed some posters during the process and entered Prathip's residence for an additional search, also without a warrant. On July 30, Prathip filed a complaint, which was pending at year's end.

On July 27, former Thai Rak Thai member of Parliament Waiphot Aphornrat claimed that military officials raided his residence in Kamphaengphet Province and, citing martial law, confiscated anticonstitution leaflets, banners, and T-shirts.

During the year Angkhana Neelaphajit, the wife of Somchai Neelaphajit, a plaintiff in a case against police for the abduction of her husband and an outspoken critic of forced disappearances, was placed under a Ministry of Justice protection program as a result of threats to her safety, particularly as police officers acquitted of the robbery and abduction of Somchai Neelaphajit remained on active duty in the police force. Angkhana was reportedly labeled an "instigator" after her involvement in October and November court proceedings challenging the detention of individuals suspected by the authorities of involvement in southern violence. She allegedly also received threatening telephone calls from individuals she believed to be high-ranking military officials.

Members of indigenous hill tribes continued to face forced evictions and relocation. Due to lack of proof of citizenship and land ownership, they were forced to move from areas they had cultivated for decades.

A land committee was established under the National Poverty Reduction Program to deal with land disputes in areas affected by the 2004 tsunami. According to the Thai Communities Foundation, 13 communities had resolved conflicts and received long-term land tenure. An additional 224 communities continued efforts to resolve land disputes.

g. Use of Excessive Force and Other Abuses in Internal Conflict

The internal conflict in the ethnic Malay, Muslim-majority southernmost provinces (Narathiwat, Pattani, Yala, and portions of *Songkhla*) continued throughout the year. Insurgents carried out almost daily bombings and attacks that caused death and injuries. An emergency decree in effect for the four provinces gives police and civilian authorities significant powers to restrict certain basic rights and delegates certain internal security powers to the armed forces. The decree also provides security forces broad immunity from prosecution. The September 2006 martial law, which remained in effect in the four provinces throughout the year, gives a broader range of power to the military.

The interim government continued making conciliatory gestures towards southern ethnic Malay Muslims, including repeated statements that it intended to resolve the conflict peacefully. However, government forces were accused of extrajudicial killings, arbitrary arrests, and torture of individuals suspected of involvement with separatists. As a result of a series of increasingly provocative attacks, tension between the local ethnic Malay Muslim and ethnic Thai Buddhist communities continued to grow.

Killings

According to Issara News Institute statistics, during the year separatist violence resulted in the deaths of 867 individuals in 2,025 separate incidents. However, other sources believed the death toll was higher. As in previous years, the separatists frequently targeted government and religious representatives, including teachers, monks, and district and municipal officials. On March 14, gunmen ambushed a van in Yala and killed eight Buddhist passengers, including two teenage girls. On March 21, one soldier was killed and three injured in a firefight with militants in Narathiwat. On May 9, seven soldiers in Narathiwat were found dead with gunshot wounds in the head.

Human rights NGOs alleged that during the year the security forces extrajudicially killed at least a dozen individuals suspected of involvement with the insurgency, although army officials denied these allegations.

While insurgents typically targeted "figures of authority," NGOs monitoring the situation observed that instances of attacks on civilians appeared to increase. Bombings and targeted killings, sometimes in public areas, resulted in death and injury on an almost daily basis. According to police statistics, at least 869 civilians reportedly were killed and 1,254 were injured as a result of separatist violence during the year. On February 18 and 19, militants staged a series of shootings, arson attacks, and bombings in Narathiwat, Pattani, Yala, and Songkhla that killed nine and injured approximately 70 persons. On May 27, seven coordinated explosions in Hat Yai City in Songkhla Province injured 13 persons, while a bomb in Songkhla's Saba Yoi District market killed four and injured 26.

Some government-backed civilian defense volunteers, most of them ethnic Thai Buddhists from villages in the south, continued to receive basic training and weapons. Human rights organizations expressed concerns about vigilantism against ethnic Malay Muslims by these defense volunteers and other civilians. On March 14, three ethnic Malay Muslims were killed and 20 injured in a Yala mosque and teashop following the deaths of eight ethnic Thai Buddhists in a van ambush on the same day. On April 9, four ethnic Malay Muslim youths were killed in Yala by what the press reported were government-backed ethnic Thai Buddhist village defense volunteers.

On April 13, soldiers shot and killed two teenagers in Pattani, reportedly mistaking them for militants. The army agreed to pay approximately \$25,500 (850,000 baht) in compensation to the families of the victims.

In mid-May in Yala, security forces allegedly killed four persons in two separate incidents. From May 31 to June 4, several thousand ethnic Malay Muslims protested in Pattani's Central Mosque, leading to the establishment of an independent commission designed to serve as a focal point for complaints against the government in Pattani, Songkhla, Yala, and Narathiwat. The commission alleged that the government had not provided operational funding for the commission's activities.

On September 5, Wae-asae Madeng, an imam in Narathiwat Province, was reportedly shot and killed while riding his motorcycle to a local market. An investigation into the killing was ongoing at year's end; no individuals had been arrested in the case. On October 10, Asae Dengsa, also an imam in Narathiwat, was reportedly killed by alleged separatists. On November 28, suspected insurgents reportedly shot, hacked, and crucified a Muslim man, allegedly for cooperating with security officials.

In contrast with 2006, there were no reports that Buddhist monks were killed as a result of southern violence, although monks were attacked and injured in Pattani on August 25.

Authorities arrested and charged 11 ethnic Malay Muslim villagers in connection with the 2005 killing of two marines in Narathiwat. At year's end the case remained in court. There were no developments in the 2005 killing of Satopa Yushoh, an imam in Narathiwat.

The government completed the restoration of the Krue Se Mosque, which government soldiers damaged during fighting in 2004, and allocated an additional \$45,900 (1.53 million baht) for supplementary improvements; however, at year's end none of the officials named by government reports as being responsible for the killings had been arrested or tried.

In April the Songkhla Provincial Court convened a post-mortem inquest into the deaths of 78 ethnic Malay Muslim detainees at Tak Bai in 2004. NGOs alleged that local military officials threatened witnesses in the inquest to prevent them from testifying. On October 10, unidentified gunmen in Narathiwat shot Ma-usoh Malong, the husband of Yaena Solaemae. Some individuals believed the killing could have been intended to intimidate Yaena, a well-known human rights defender who was involved in the Tak Bai inquest. At year's end no individuals had been arrested in connection with the killing, and a police investigation was ongoing.

Abductions

In March Human Rights Watch released a report documenting 22 cases of disappearances in the southern provinces between 2002 and October 2006 under the Thaksin and interim governments. In many cases the missing persons allegedly disappeared after being questioned by security forces. The RTP announced it would investigate the reported disappearances, but at year's end no individuals had been brought to trial or convicted.

At year's end the Central Institute of Forensic Science had yet to proceed with a project to exhume approximately 400 unidentified bodies from cemeteries in the south. The institute received court authority to proceed, and the government collected DNA samples from members of the families who had filed complaints that members of their family had been abducted. However, due to budgetary constraints, the reported reluctance of provincial governors to allow remains to be transported across provincial borders, and alleged opposition from some law enforcement agencies, the work of identifying the bodies had not begun. The NHRC and other human rights organizations believed that if this effort proceeded, more families in the south would report disappearances.

There were no developments in the May 2006 abduction of Wae-halem Kuwaekama from Joh Airong District in Narathiwat.

Physical Abuse, Punishment, and Torture

The army was accused of torturing some suspected militants, mostly at the Royal Thai Army's Region Four Ingkayut Borihan military camp in Pattani and at other detention facilities in the region. The NHRC and the army investigated complaints by Sukri Ar-dam that military personnel at Ingkayut Borihan tortured him and five other suspected militants after their arrest on April 11 in connection with the February 8 beheading of an ethnic Thai Buddhist. The NHRC also investigated the July 22 death of Ashari Sama-ae, whom security forces allegedly beat while he was in custody prior to being transported to the Ingkayut Borihan camp and who later died while undergoing medical treatment at Yala Hospital.

Human rights organizations alleged abuse in the reported death of Sakareeya Pa-oh Mani, who died on June 28 in Yala. Authorities reportedly explained that he was shot in an attack by unidentified persons while being transported from military to police custody that injured none of the military officers transporting him. However, an autopsy reportedly identified the cause of death as severe physical abuse.

On February 12, Royal Thai Army Chief and CNS Chairman Sonthi Boonyaratkalin ordered an investigation into the alleged November 2006 torture of Muhammad Ari Yusoh, a farmer from Narathiwat who claimed that soldiers tortured him while he was detained in a southern detention facility. At year's end the investigation reportedly was ongoing.

During the year the Justice Ministry and the NCCC opened investigations into the complaint that police beat four ethnic Malay Muslim men while they were in custody in 2004.

During the year the government arrested hundreds of suspected militants, some of them juveniles, and in some cases held them for a month or more under provisions of the emergency decree and martial law. Human rights organizations considered the arrests arbitrary, excessive, and needlessly lengthy, and they expressed concerns about detention facility overcrowding. The media documented occasions in which security forces arrested all male occupants of a village or detained the elderly or infirm.

The emergency decree in effect in Yala, Narathiwat, and Pattani provinces plus parts of Songkhla, allows authorities to arrest and detain suspects for up to 30 days without charge. After the expiration of this period, authorities can begin holding suspects under normal criminal law. Unlike under martial law, these detentions require the consent of a court of law, although human rights NGOs complained that courts did not always exercise their right to review these detentions. Government statistics were not available, but at year's end police officials stated that thousands of persons had been arrested under these provisions and that approximately 10 percent of those arrested had been prosecuted. It was unclear whether any persons were detained in the south under the auspices of martial law alone during the year.

On September 7, the NHRC released the result of an investigation into the detention of 348 individuals detained by security forces in July under the emergency decree. The NHRC concluded that the basis for these arrests was unclear, that they were carried out at random, and that the arrest and detention of children contravened criminal laws because interrogation of children took place without the presence of an individual trained in child care. The NHRC noted that facilities in at least three military detention centers were inadequate and unsanitary and that the presence of visible wounds on the bodies of detainees indicated evidence of mistreatment while in government detention.

No members of the security forces accused of abusing detainees were criminally prosecuted, although some were reassigned internally.

Human rights organizations also expressed concerns over a government program to transfer approximately 400 detainees whom authorities declined to prosecute criminally to military camps in Chumporn, Ranong, and Surat Thani provinces. Military officials stated that detainees at these camps participated in a four-month, government-run vocational training program. While government officials insisted that participation in the training program was voluntary, there were reports that military officials threatened some detainees with prosecution for aiding the insurgency or blacklisting if they declined to participate. The military did not provide international organizations, such as the ICRC, access to these military facilities. There were also reports that the government denied some detainees access to their family members while in government custody and that individuals were often detained in remote facilities that made family visitation difficult and costly.

On October 30, Surat Thani, Ranong, and Chumporn provincial courts ruled that the army could not compel participation in the vocation training program. However, the army prevented many detainees from returning to their homes until November 17 and 18, when the army lifted a July 22 order that prohibited many former detainees from traveling to or residing in Pattani, Yala, and Narathiwat for six months. In mid-November courts ordered the release of three detainees whom officials rearrested on November 3-4, ruling that officials failed to present justifiable grounds for a new arrest.

Child Soldiers

There were reports that separatist groups recruited teenagers under the age of 18 to carry out attacks.

Other Conflict-Related Abuses

There were reports that separatists used women and children as human shields to confront or provoke security forces and restrict their operations. In response, on January 18, the police and military announced that they would start enforcing a provision of martial law that prohibits the gathering of more than 10 persons.

Insurgents burned more than 100 schools in the south. The government periodically closed schools throughout the region in response to attacks against teachers and educational facilities. The government frequently armed ethnic Thai Buddhist and some ethnic Malay Muslim civilians, fortified schools and temples, and provided military escorts to monks and teachers.

Separatist violence included attacks on medical facilities, such as the destruction of two government health centers in Yala on April 4. In August Human Rights Watch reported that the violence led many community health centers to reduce their working hours and that some doctors were less willing to visit patients outside of hospitals. According to the Public Health Ministry, 49 public health volunteers had been killed, 33 health volunteers had been injured, and 21 community health centers had been burned or bombed in the south since January 2004.

While official government statistics were not available, there were reports that a significant number of ethnic Thai Buddhists were fleeing violence-affected areas for other provinces in the country.

Section 2 Respect for Civil Liberties, Including:

Freedom of Speech and Press

The new constitution specifically provides for freedom of speech and of the press with some exceptions, as did the interim constitution, although the government continued to limit many rights during the year.

Prior to the September 2006 coup, freedom of speech and the press were often curtailed by government interference and the use of libel suits directed against journalists. In the immediate aftermath of the September 2006 coup, the broadcast media, particularly television and radio, were closely monitored and on occasion censored by the military government. In the days after the coup, there was also an increase in censorship online. The government blocked numerous Web sites critical of the coup leaders, as well as those that expressed pro-Thaksin views, although most were accessible again by the end of 2006. In the months following the coup, the government continued to pressure the media, particularly broadcast media, to cooperate on disseminating factual and constructive news and information; however, government interference on the media subsequently lessened. Print and broadcast media reported news critical of the interim government and the CNS, as well as statements and activities of the former prime minister.

On July 3, the cabinet lifted a decree issued by military coup leaders calling for the Ministry of Information and Communication Technology (MICT) to "censor, prevent, block, and destroy dissemination" of information carried on the telecommunications networks that contained "articles, messages, verbal speech, or any other discourse" that could undermine the coup leaders.

On August 29, the National Legislative Assembly passed the Printing Act, nullifying the 1941 Printing Act that required newspaper publishers to be licensed and granted authorities the power to shut down newspapers. The new law, which went into effect on December 19, also abolished amendments to the 1941 Printing Act and three past Revolutionary Announcements that further inhibited press freedom. Print journalists and media activists welcomed the legislation and viewed it as a positive step toward advancing press freedom.

By law the government may restrict freedom of speech and freedom of the press to preserve national security, maintain public order, preserve the rights of others, protect public morals, and prevent insults to Buddhism. Lese majeste laws also make it a criminal offense to criticize the monarchy and some members of the royal family. The law permits police to close newspapers or printing presses in times of war or national emergency, but only with a court order. The law allows police under a court order to restrict or confiscate publications and other materials for disturbing the peace, interfering with public safety, or offending public morals. The government could restrict print or broadcast media through the Emergency Decree imposed in July 2005. The decree empowers the government "to prohibit publication and distribution of news and information that may cause the people to panic or with an intention to distort information." The Emergency Decree also authorizes the government to censor newspapers and ban publications. None of these powers was used during the year.

The government and large media conglomerates, some close to the deposed Thaksin government, retained ownership of large stakes in many prominent newspapers.

Government entities retained ownership and control of all radio and television stations, including the 524 officially registered "regular" AM and FM stations. The military and police services also retained ownership of another 244 radio stations, ostensibly for national security purposes. Other owners of national broadcast media included the government's Public Relations Department (PRD) and the Mass Communication Organization of Thailand, a former state enterprise of which the government still owned a majority share. Almost all of the stations were leased to commercial companies.

At year's end the case of the June 2006 shooting of journalist Manop Ratanajaroongporn in Phang Nga Province was pending. There was no resolution of the November 2006 killing of Santi Lammaneein, owner of the *Pattaya Post* and freelance reporter. There were no developments in the 2005 killings in Pattani Province of Phruttiphong Marohabut, an iTV cameraman, and Pongkiat Saetang, editor of the *Hat Yai Post*. Most were believed to have been targeted for their politically sensitive reporting.

Print media criticism of political parties, public figures, and the government was common. Journalists generally were free to comment on government activities and institutions without fear of official reprisal; however, they routinely practiced self-censorship, particularly with regard to the monarchy and national security.

The government both directly and indirectly censored broadcast media, and self-censorship was also evident. Broadcast media nevertheless reported criticism of the government but were severely constrained in transmitting reports in support of Thaksin.

On January 10, the CNS secretary general summoned several dozen editors and media executives to army headquarters and warned that strict measures would be taken against those who ignored a CNS request to present only "constructive" news. Despite the warning, broadcast media continued to report criticism of the government.

In general, international media were allowed to operate freely, although with some exceptions. On January 15, the government blocked a CNN broadcast of an interview with Thaksin.

On March 18, government authorities interrupted the signal of People's Television (PTV) 10 hours into its first broadcast. The newly established satellite-based station, owned by members of the former ruling Thai Rak Thai party, was originally scheduled to begin broadcasting on March 1, but it was delayed allegedly due to the refusal by the state-run Communications Authority of Thailand and the Telephone Organization of Thailand to connect PTV's signal to a satellite transponder. The station reportedly began broadcasting on March 17, and at year's end it operated both online and via satellite.

On February 27, the cabinet decided to revoke the license of iTV, the television station sold by Thaksin to Temasek Holdings of Singapore in January 2006, if it could not pay fines and back-concessions fees totaling approximately \$3.07 billion (102.2 billion baht) within one week. On March 6, iTV went off the air and reopened two days later as Thailand Independent Television (TITV), operated by the PRD. On June 24, TITV employees lodged a complaint against government authorities with the Thai Broadcast Journalists Association (TBJA), claiming the authorities ordered them not to broadcast reports criticizing government policies. The case remained under investigation by the association at year's end. On December 21, the PRD ordered the transfer of 16 TITV news editors and directors to inactive posts. On December 22, the TBJA called for an explanation of the abrupt transfers, suggesting they could affect the station's reporting of the December 23 election. The media reported that the PRD allegedly pressured TITV officials not to broadcast an interview with Thaksin that was originally scheduled for December 25.

Three popular television talk show hosts, one of them People's Power Party (PPP) leader Samak Sundaravej, were each given two-year jail sentences on defamation charges stemming from statements made in 2005 and 2006 against government officials. The Committee to Protect Journalists denounced the sentencing, claiming that such decisions would lead to more self-censorship among journalists. At year's end the three were free on bail, and their cases awaited appeal.

During the year there were no reports that journalists were jailed for reporting on politically sensitive issues.

On December 18, a criminal court reportedly fined the Manager Media Group \$3,000 (100,000 baht) and sentenced an editor at the *Manager* newspaper to six months' imprisonment for the libel of the director of the National Park, Wildlife, and Plant Conservation Department. On December 25, a court ruled on charges filed during the Thaksin government and sentenced Sondhi Limthongkul, the owner of the *Manager* and an outspoken critic of Thaksin's government, to three years' imprisonment for libeling Thaksin during antigovernment rallies in March 2006. Sondhi was released on bail and vowed to appeal the ruling. Nevertheless, there were no reports that the interim government used libel laws to suppress criticism of political or other leaders.

Contrary to past years, newspaper editors made no reports that state-owned companies threatened to withdraw advertising contracts due to a particular newspaper's editorial tone. Likewise, there were no reports that the government tried to discredit the conventional media by presenting government public relations tools as neutral media outlets.

Radio stations must renew their licenses every year, and radio signals are broadcast via government transmitters. Stations are required by law to broadcast 30-minute government-produced newscasts twice daily. The country's estimated 2,000 to 3,000 community radio stations operated under somewhat different regulations. Because broadcast regulations restrict radio frequencies to government entities, these stations technically operated outside the law, but most were allowed to continue broadcasting provided they registered with the government. During the year the PRD shut down more than 20 community radio stations for allegedly using illegal frequencies and interfering with aviation communication. On May 17, the PRD ordered Confidante Radio FM 87.75 in Nonthaburi Province off the air following a telephone interview with Thaksin. At year's end the station was broadcasting content over the Internet. The Committee to Protect Journalists condemned the government's actions against radio stations that broadcast content considered pro-Thaksin.

Following the September 2006 coup, no progress was made on the appointment of a National Broadcast Commission tasked with reallocating all broadcast frequencies and regulating the broadcast media. Provisions in the new constitution call for the commission's establishment once a new government is seated.

In October government censors reportedly prohibited the PPP and the Motherland Party from broadcasting portions of political campaign advertisements deemed "divisive." The advertisements were reportedly permitted to be broadcast after the parties removed the offending portions.

The government continued to prohibit the import and sale of *The King Never Smiles*, written by Paul Handley and published overseas.

On September 28, the government prohibited the sale and distribution of *A Quarter-Century on Democracy's Thorny Path*, written by Sulak Sivaraksa. Authorities reportedly claimed that the book "undermined social order and public morals." Police reportedly confiscated copies of the book already on sale.

Internet Freedom

Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail; however, there were some limitations. There were some government restrictions on access to the Internet and reports that the government monitored and blocked Internet chat rooms.

On July 24, the interim government enacted the 2007 Computer Crime Act, which creates new computer crime offenses, establishes procedures for the search and seizure of computers and computer data in certain criminal investigations, and gives the MICT authority to request and enforce the suspension of information disseminated via computer. Under the act a maximum five-year jail sentence and a \$3,000 (100,000 baht) fine can be imposed for posting false content on the Internet that undermines public security, causes public panic, or hurts others. A maximum 20-year sentence and \$9,000 (300,000 baht) fine can be imposed if an offense results in the death of an individual. In addition, any service provider who intentionally consents to or supports the publishing of illegal content is also liable. It also obliges Internet service providers to preserve all user records for 90 days, in the event that officials wish to access them. Media activists criticized the law, stating that the offenses are defined too broadly and some penalties are too harsh.

In August, in two separate incidents, a well-known Web administrator and an Internet blogger were arrested and charged under the Computer Crime Act for allegedly posting comments considered critical of the monarchy. They were both released on bail, and at year's end prosecutors had not filed criminal charges in the case. There were unconfirmed reports by civil rights NGOs that these individuals were arrested without a warrant and held for several days without access to legal representation.

On February 9, the advocacy group Freedom Against Censorship Thailand, claiming that more than 11,000 Internet sites were blocked, formally requested the MICT to disclose details of its list of blocked Web sites. The MICT reportedly denied the request. The MICT stated that approximately 200 sites, most of which were pornographic in nature, were blocked in the first six months of the year.

On April 3, the MICT banned the Web site YouTube in response to videos posted that were considered in violation of a law prohibiting criticism of the monarchy. The MICT lifted the ban on August 30 after YouTube agreed to block access to some content deemed illegal by the government.

Several political Internet Web boards and discussion forums chose to self-censor and closely monitored discussions to avoid being blocked. On April 8, the government shut down the political chat room Rajdamnoen temporarily, citing national security concerns. Posting later resumed under reportedly strict self-monitoring by Web site administrators and users. The government intermittently blocked access to two pro-Thaksin Web sites during the year, although official explanations justifying the

blockages were often not readily available. Access to the sites was generally restored within days. At year's end both sites were accessible from within the country.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom, either before or after the coup. Nakhon Pathom provincial police reportedly investigated Boonsong Chaisinghanon, a Silpakorn University philosophy professor, and threatened to charge him with lese majeste for asking students in an exam whether the monarchy was necessary for Thai society. However, at year's end the professor had not been charged.

During the year Chulalongkorn University political science professor Giles Ungpakorn reported that the university bookstore refused to sell his book *A Coup for the Rich*. The book was available for sale elsewhere.

Cultural events may be censored, usually for reasons of public decency. On December 20, the National Legislative Assembly amended the 1930 Film Act. The new law retains provisions of the original Film Act, under which theater owners and broadcasters must submit films they plan to show to the film censorship board for review. The board may ban a film if offending portions are not deleted. Reasons for censoring films include violating moral or cultural norms and disturbing the public order or national security. Theater owners and broadcasters frequently censored films themselves before submitting them to the board. According to the board, no films have been banned since 2003. During the year film director Apichatpong Weerasethakul reported that police refused to release a print of his film *Syndromes and a Century* until he agreed to censorship board demands to remove several scenes.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

While the interim constitution did not specifically provide for freedom of assembly, the government generally respected this right with some exceptions. The new constitution specifically provides for freedom of assembly, although exceptions are made for martial law and states of emergency. Martial law, which gives the military authority to restrict freedom of assembly, was in effect in all of 20 provinces and portions of 15 others. A September 2006 decree prohibiting all political gatherings or political activities by political parties remained in effect until July 18, when the National Legislative Assembly voted to lift restrictions on political gatherings and party registration; the restrictions were lifted on August 18.

The emergency decree for the southern provinces allows the government to limit freedom of assembly, but this provision was not used during the year.

Government officials in the provinces of Surat Thani and Rayong prohibited migrant workers--specifically those from Cambodia, Burma, and Laos--from forming gatherings, among other restrictions, while Phuket, Ranong, and Phang Nga provinces prohibited gatherings of more than five persons. Employers could request permission from authorities for migrant workers to hold cultural gatherings.

Through September anticoup groups, including the PTV, UDD, Saturday People's Movement Against Dictatorship, Confederation for Democracy, and September 19 Network Against the Coup d'Etat, among other organizations, staged a series of mostly peaceful protests in Bangkok and other areas against the coup leaders and the new constitution, prior to its approval in August. The demonstrations drew as many as 30,000 participants. There were reports that police and military taskforces established roadblocks and questioned vehicle, bus, and train passengers to prevent persons from the north and northeast from traveling to Bangkok to participate in the protests. Although demonstrators in Bangkok did not always possess the proper permits, the authorities allowed most demonstrations to proceed without incident.

On July 22, clashes between approximately 2,000 police and at least 3,000 UDD anticoup protesters resulted in the reported injury of approximately 200 protesters and 77 police in front of the home of Privy Council President Prem Tinsulanonda. According to eyewitness and media accounts, protesters initiated an unauthorized march to Prem's home and forced their way past police barricades. Police used tear gas and pepper spray to disperse the protesters, stating they decided to do so after attempts to negotiate a peaceful dispersal failed. On July 26, police detained nine protest leaders and charged them under the criminal code with holding an illegal assembly that caused unrest. The leaders were subsequently released on bail. According to the UDD, at year's end prosecutors had not filed charges. On September 26, the National Legislative Assembly voted to expel NHRC Commissioner Jaran Ditapichai from the NHRC as a result of his participation in the protest.

Freedom of Association

While the interim constitution did not specifically provide for freedom of association, the government generally respected this right with some exceptions. The new constitution specifically provides for freedom of association, although exceptions are made "to protect public interests, to maintain public peace and order or good morals, or to prevent economic monopoly." On August 18, restrictions were lifted on the registration and formation of new political parties. Coup leaders had suspended such actions following the September 2006 takeover.

The government prohibited individuals who were candidates in local elections from identifying with a political party under the provisions of the September 2006 decree prohibiting such activities. Officials indicated that until the decree was lifted on August 18, authorities prohibited political parties from campaigning on behalf of local candidates in 293 local elections held between September 2006 and August 17. The government also prohibited candidates from distributing printed materials carrying the name of a political party or publicly identifying a political party as a candidate's sponsor.

On July 26, the National Legislative Assembly amended a law on political parties to prohibit the registration of parties with the same name or emblem as that of a dissolved political party. Legal experts maintained that the amended law was designed to inhibit the reregistration of the banned Thai Rak Thai party. The law took effect on August 18.

c. Freedom of Religion

The interim constitution, by reference, provided for freedom of religion, and the government generally respected this right in practice; however, it restricted the activities of some groups. The new constitution specifically provides for freedom of religion, provided that the religion is not contrary to a person's "civic duties, public order, or good morals."

The constitution requires that the monarch be a Buddhist. The state religion in effect is Theravada Buddhism, although it is not designated as such. Some Buddhist organizations called for the designation of Buddhism as the state religion in the new constitution, but such a provision was not included.

Under the Religious Organizations Act, a new religion can be registered if a national census shows that it has at least 5,000 adherents, represents a recognizably unique theology, and is not politically active. A religious organization must also be accepted into one of the five officially recognized ecclesiastical groups: Buddhist, Muslim, Catholic (which includes four Protestant subgroups), Brahmin-Hindu, and Sikh. Since 1984 the government has not recognized any new religious groups. Government registration confers some benefits, including access to state subsidies, tax-exempt status, and preferential allocation of resident visas for organization officials. Unregistered religious organizations did not receive these benefits but operated freely in practice.

The constitution requires the government "to patronize and protect Buddhism and other religions." The government subsidized activities of the three largest religious communities.

The 1962 Sangha Act specifically prohibits the defamation or insult of Buddhism and the sangha (Buddhist clergy). The penal code prohibits the insult or disturbance of

religious places or services of all recognized religions in the country. Followers of the Santi Asoke sect of Buddhism were unable legally to refer to themselves as Buddhists because of theological disagreements with the Sangha Council, but they were able to practice their faith without restriction.

The government stationed troops to protect religious practitioners and structures in communities where the potential for violence existed and provided armed escort for Buddhist monks where necessary.

Religious instruction is required in public schools at both the primary and secondary education levels. The Ministry of Education has formulated a course that contains information about all recognized religions in the country.

In the past "pondok" (traditional Islamic) schools were not required to register with the government and had no government oversight or funding. Following the outbreak of violence in the southern provinces in 2004, registration with the government was made mandatory. By year's end the government had registered 344 pondok schools in Yala, Pattani, and Narathiwat and 59 pondok schools in other provinces. Observers estimated that as many as 1,000 pondok schools operated in the south.

Muslims, who represent between 5 and 10 percent of the population nationwide and constitute the majority in four of the five southernmost provinces, experienced some economic discrimination. The government attempted to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities. However, these efforts were often resisted amid charges of forced assimilation. Muslims outside of the southern provinces were much better integrated into society.

Government officials reportedly continued to monitor Falun Gong members and restrict their activities. The Falun Gong complained that immigration police prohibited refugee or exiled members of the group from leaving the country. The group also alleged that police forced the cancellation of an August 12 event at the royal grounds due to officials' fears that the event would damage bilateral relations with China. The group indicated that police intermittently refused to grant permission to publish some literature about the Falun Gong movement. On September 18, police reportedly banned the distribution of the Falun Gong publication *Nine Articles Criticizing the Communist Party*, claiming the publication threatened public safety and morals. The Falun Gong abandoned a petition challenging the government's 2005 denial of their application to register as an association with the Office of the National Cultural Commission.

Societal Abuses and Discrimination

Violence committed by suspected separatist militants in Narathiwat, Pattani, Songkhla, and Yala affected the ability of some ethnic Thai Buddhists in this predominantly ethnic Malay Muslim region to undertake the full range of their traditional religious practices. Buddhist monks and temples were targeted. A number of monks reported that they no longer were able to travel freely through southern communities. Monks also claimed that, due to fear of being targeted by militants, laypersons sometimes declined to assist them in their daily activities. During the year at least five Buddhist laypersons were reportedly beheaded, compared with one in 2006. According to media and academic sources, suspected insurgents beheaded at least three Muslims during the year.

As a result of a series of increasingly provocative attacks, tension between the local ethnic Malay Muslim and ethnic Thai Buddhist communities in the south continued to grow. Many persons presumed that the killing of Buddhist civilians was intended to increase interfaith tensions. Government officials and observers expressed concern that the violence could result in open communal conflict. However, there were no outbreaks of communal violence between the Buddhist and Muslim communities. Many Muslims complained of societal discrimination both by Buddhist citizens and by the central government. Many Muslims complained that Thai-language newspapers presented a negative image of Muslims and their communities, associating them with terrorists.

Insurgent groups in the south spread propaganda against Buddhists in the form of threatening pamphlets and flyers. There were allegations that some religious school teachers in the south preached hatred for Buddhists as well as for Muslims who cooperated with the government and security forces.

There were no developments regarding the Hmong remains disinterred at the Wat Tham Krabok monastery in 2005. A Buddhist organization contracted by the monastery retained the remains pending relocation to another site.

The indigenous Jewish community is small, and there were no reports of anti-Semitic incidents.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The interim constitution, by reference, provided for freedom of movement within the country, foreign travel, and emigration, and the government generally respected these rights in practice; however, there were some exceptions. The new constitution specifically provides for these rights but makes exceptions for "maintaining the security of the State, public peace and order or public welfare, town and country planning, or youth welfare." The government generally cooperated with humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern, although with many restrictions.

Members of hill tribes who have not been granted citizenship were issued color-coded identity cards that reflected restrictions on their freedom of movement. Holders of such cards often were prohibited from traveling outside their province or district without permission from the district head. Offenders were subject to heavy fines and jail terms. Persons with no card could not travel at all.

Other longtime noncitizen residents, including hundreds of thousands of ethnic Shan and tens of thousands of members of other tribes, were required to seek permission from local authorities or the army for foreign and domestic travel.

Migrant workers may work only in certain provinces. The government continued to offer illegal migrants the opportunity to be legally registered. Registration must be renewed each year. According to the Ministry of Labor, 558,269 migrants registered during the year, 507,774 of whom were from Burma. Migrants from Burma may apply for temporary passports at select Burmese border crossings. Burmese migrants possessing these temporary passports are able to legally reenter Thailand and work. The travel document is not valid for travel to third countries. Similar agreements are in place with the governments of Laos and Cambodia. Under the law unregistered children of illegal migrants face arrest and deportation.

The law prohibits forced exile, and the government did not practice it. Former prime minister Thaksin, who was not in the country during the September 2006 coup d'etat, remained abroad at year's end. The government stated Thaksin was free to return, but Thaksin stated he would not do so, citing safety concerns. On January 10, the Ministry of Foreign Affairs announced that it would revoke Thaksin's diplomatic passport, which former prime ministers had been able to retain, in response to Thaksin's political activities overseas. The Foreign Affairs Ministry added that Thaksin would remain entitled to hold an ordinary passport. In August and September, the government issued arrest warrants against Thaksin and his wife in connection with corruption allegations.

Internally Displaced Persons

During the year the government provided assistance to encourage 55 Buddhist families who had sought shelter at a Buddhist temple as a result of insurgent violence in November 2006 to return to their homes in Yala. By year's end all of the displaced families had returned home.

Protection of Refugees

The country is not a signatory to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and the law does not provide for granting asylum or refugee status. The government had reestablished a screening process for Burmese entering the official refugee camps, but the process stalled in most provinces during the year. While the government generally cooperated with humanitarian organizations in assisting refugees, cooperation with the UNHCR deteriorated during the year as authorities detained increasing numbers of Hmong, North Korean, and Burmese Rohingya asylum seekers and refugees. The UNHCR was forbidden to conduct refugee status determinations or provide its protection mandate to these groups. However, the government permitted a UNHCR monitoring presence at the main immigration detention center in Bangkok, where many of the new arrivals were imprisoned.

The government continued to allow the UNHCR to monitor the conditions of the approximately 140,000 Burmese refugees living in nine camps along the Burmese border but prohibited the UNHCR from maintaining a permanent presence in the border camps. NGOs provided basic needs assistance in the camps. Authorities permitted the UNHCR to provide identification cards to registered refugees living in the camps.

During the year provincial admission boards (PABs) formally admitted 2,499 refugees into camps. Many of the refugees previously lived in the camps without formal permission. The government agreed to permit third-country resettlement of camp refugees, and at year's end 14,636 persons were resettled from the camps. In April the UNHCR was prohibited from making refugee status determinations for Lao Hmong, North Koreans, and other vulnerable groups arriving in Thailand.

IDCs in several provinces and Bangkok were designated to house asylum seekers. Conditions in all IDCs were poor, with mental and physical health problems among the asylum seekers stemming from overcrowding and poor ventilation. In August an asylum seeker died in Bangkok's main IDC. A foreign observer reported that the man had received insufficient medical care to treat a chronic health condition.

The government allowed NGOs to provide food, medical services, housing, and other services to Burmese who may have valid refugee claims but who resided outside the camps. Government officials periodically arrested Burmese outside designated camps as illegal aliens. Those arrested generally were taken to the border and released without being turned over to Burmese authorities. Many returned to Thailand shortly thereafter.

In addition to the urban Burmese refugees, the UNHCR reported that after the September crackdown on prodemocracy protesters in Burma, 218 related new arrivals contacted the UNHCR and were provided temporary UNHCR identification documents. In November the government announced a "fast track" PAB screening process for these cases. However, by year's end only a single case had been reviewed in this special process. The government announced at year's end that several "pilot PABs" would convene in early 2008 to screen some of the new arrivals in the camps.

Approximately 200 to 300 Burmese asylum seekers were refused entry by border guards in separate instances in March and April. However, thousands of other asylum seekers were able to enter the country and gain entry into the refugee camps during the year. According to an NGO consortium long active on the border, there were approximately 20,000 unregistered asylum seekers in the nine camps. The government did not deport any refugees who fled the September crackdown in Burma.

During the year the government permitted NGOs to expand occupational training, legal assistance, and income generation programs in the camps.

From late 2006 to mid-year, several groups of Hmong asylum seekers were deported to Laos. The UNHCR was not permitted to review the refugee claims of these groups, nor were their refugee claims reviewed by government screening boards.

In practice the government provided some protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution, although the government adopted a tougher approach to resolve the situation of the approximately 7,800 Hmong who congregated in Huay Nam Khao, Phetchabun Province, some of whom appeared to have valid refugee claims. The government reserved the right to repatriate the population at Phetchabun to Laos and has not granted the UNHCR permission to interview them to determine their refugee status. However, an internal screening system was reportedly put in place to identify those who might face harm if returned to Laos, and by year's end no forced repatriations had taken place. In June the government relocated the population to a new army-managed camp with better living conditions. Food and basic health care were provided by an international NGO.

There were reports that local officials in Mae Hong Son Province prevented the departure of ethnic Karenni Paduang refugees that had been accepted by third countries for resettlement, presumably because the group's traditional practices were used to attract tourists to the area.

In November 2006 authorities in Bangkok detained 156 Hmong asylum seekers from Laos, including 90 children. In December 2006 authorities moved the group to the Nong Khai IDC, near the border with Laos. All individuals in this group had UNHCR "person of concern" status. In January the government attempted to deport the group to Laos but aborted the effort following protests from the international community and resistance from the refugees themselves. After the government deported a separate group of 161 Hmong to Laos in June, seven refugees escaped from the Nong Khai IDC. Following this incident, authorities confined the remaining 149 Hmong to their cells until September, when small groups were allowed out of their cells for medical care. The government permitted the UNHCR to conduct weekly visits and a local NGO to provide supplementary food and toiletries. Several countries sought to consider the group detained at Nong Khai for refugee resettlement. However, at year's end authorities had not permitted resettlement processing to continue or release of the refugees from detention.

Human rights organizations called for the government to provide education to children of illegal migrants.

Stateless Persons

A significant but indeterminate number of stateless persons resided in the country. According to the Ministry of Interior, an estimated 220,000 individuals were deemed not to have "legal personal status" to be in the country and were not eligible to apply for citizenship. According to local NGOs, 337,000 individuals were without legal status in the country, although some were eligible to apply for citizenship. These stateless persons, most of whom are known as highlanders or hill tribes, were concentrated in the northern region. Many lived in poverty and as noncitizens did not have access to a variety of government services, such as health care, although an estimated 60,000 stateless children were reportedly registered in schools. The law prohibits many highlanders from traveling out of northern districts where they reside. The law also prohibits highlanders from participating in occupations reserved for citizens, most notably farming, although in practice officials permitted highlanders to undertake small-scale subsistence activities. NGOs speculated that the restrictions led to a greater likelihood of individuals engaging in illegal activities such as drug production and trafficking, which historically has been prevalent among highlanders.

A cabinet resolution prohibits stateless persons from having equal legal access to citizenship. According to NGOs, legislation states that any person who entered the country illegally after October 1985 is ineligible for citizenship. Because the law considers that citizenship is passed from one's parents, the children of these stateless persons would not automatically be considered citizens and must provide evidence of having been born in the country to receive citizenship. However, because of poverty and restricted mobility of highlanders, documentation and evidence of birth was usually difficult to provide. In addition, those stateless persons who were born in the country and who may be able to prove citizenship eligibility often waived that privilege to classify themselves as "migrants" and gain access to certain jobs unavailable to stateless persons. In doing so, however, these individuals lost any basis for citizenship eligibility that they previously held.

In 2002 in Chiang Mai Province, the Ministry of Interior revoked the citizenship of 1,243 previously stateless persons on the basis of alleged corruption among government officials during their application for citizenship. These persons won a 2005 court case against the government, which has since restored citizenship to most of them. Nevertheless, 33 children born to these persons during the legal proceedings had not been granted citizenship by district officials.

Gender is a factor in the law for stateless persons. Children born to a Thai father and a noncitizen mother must apply for citizenship on the grounds of being born in the country, which can be difficult to prove for rural highlanders without access to hospitals. For children born out of wedlock, citizenship is automatically passed only by the mother.

In 2005 the government passed a cabinet resolution permitting the estimated 377,000 individuals without legal status to remain in the country temporarily. This legally allowed for certain privileges, such as increased mobility between districts. However, district-level officials did not fully enforce this resolution, and police at inland checkpoints reportedly asked for bribes in exchange for allowing stateless persons to move from one district to another.

In 2005 the National Security Council adopted a policy that allows for individuals who reside in the country for 10 years to be eligible to apply for conditional citizenship, although the government retains the authority to revoke their citizenship at any time. NGOs believed this strategy could help solve many of the citizenship problems of stateless persons; however, it does not have the force of law and was not enforced by district-level officials.

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

Following the September 2006 takeover, coup leaders repealed the constitution, abolished both houses of Parliament, deposed the prime minister and his cabinet, cancelled national elections scheduled for October 2006, and promulgated an interim constitution. The interim constitution did not provide citizens the right to change their government peacefully; however, it established a process by which a new constitution would be drafted and submitted to a referendum. The new constitution, which voters approved in a national referendum on August 19, provides citizens the right to change their government peacefully through periodic, free, and fair elections based on universal, compulsory suffrage. The new constitution provides for the election of all members of the 480-seat lower house of Parliament and 76 members of the 150-seat Senate. It also provides for the appointment of 74 additional members of the Senate by members of the judiciary and other regulatory bodies.

Elections and Political Participation

A national election for the lower house of Parliament was held on December 23 and was generally considered free and fair; however, there were allegations of widespread vote buying, minor procedural irregularities, and scattered but unconfirmed reports of intimidation by local military and government officials. International observers stated that the state of martial law in effect in parts of the country during the election was inconsistent with international norms. On December 25, the Election Commission of Thailand (ECT) released unofficial results indicating that the PPP, led by Samak Sundaravej, won a plurality of 233 seats in the 480-seat lower house. On December 30, the ECT disqualified three PPP candidates for alleged vote buying. By year's end the ECT called for a revote in two parliamentary constituencies involving six parliamentary seats while continuing to investigate campaign-related violations possibly leading to further disqualifications. At least five political canvassers and local government officials reportedly were killed or injured during the election campaign; there was speculation that some of the killings may have been politically motivated. At year's end the final composition of Parliament remained unclear, and the ECT had not officially endorsed the election results.

Following the September 2006 coup, the coup leaders appointed retired general Surayud Chulanont to serve as prime minister of an interim government and promulgated an interim constitution that established an appointed 250-seat National Legislative Assembly (NLA), which formally convened in October 2006, in lieu of Parliament. The NLA functioned as the legislature through the end of the year. The new constitution calls for the disbandment of the NLA when a new parliament is formally convened.

In the August 19 constitutional referendum, 57 percent of voters approved the new constitution, which was promulgated on August 24. The referendum was viewed as generally free and fair, although there were limited reports of vote buying and voter intimidation in some provinces. A bomb reportedly injured two persons near a referendum voting station in Narathiwat. Some groups reported that the government restricted their ability to campaign against the constitution. There were also reports that representatives of the military compensated local officials for mobilizing citizens to vote in favor of the constitution.

On May 30, the Constitutional Tribunal ruled that the former ruling Thai Rak Thai (TRT) party violated the law by paying non-TRT politicians to create stand-in competitors to contest the April 2006 election, which was boycotted by opposition parties. The tribunal ordered the dissolution of TRT, Thai Ground Party, and Develop the Thai Nation Party and revoked the political rights of 111 TRT executive board members for five years, a restriction that prevents them from voting, holding elective office, or contesting elections. The party dissolution case, which had begun prior to the September 2006 coup, was prosecuted based on laws associated with the repealed 1997 constitution. The penalty imposed was based on a September 2006 decree issued by the coup leaders and was significantly more severe than provided for by the laws in effect when the offenses occurred.

Although political parties refrained from most formal activities through August 18, when the government lifted restrictions on political gatherings and party registration, politicians were active on an individual basis, participating in seminars and conferences and making statements to the press during this period. The government also did not detain or arrest political party leaders for carrying out political activities during this period.

PPP officials alleged that the security forces conducted raids in Chiang Rai in October and November designed to intimidate PPP candidates, allegations that the military denied. Citing election laws, on November 16 the ECT publicly advised the 111 former TRT executive board members whose political rights had been revoked that they could not publicly campaign for, be photographed with, or provide advice to candidates competing in the December 23 elections. On November 28, an investigative subcommittee reporting to the ECT found that the CNS was acting with bias when it allegedly drafted documents that purportedly indicated the CNS planned to subvert the PPP. On December 12, the ECT ruled that the CNS had not acted improperly because the constitution granted the CNS legal immunity and there was no evidence the CNS had implemented the plan.

There were 21 women in the 250-seat appointed National Legislative Assembly. Women held two cabinet positions in the interim government.

Few members of ethnic minorities held positions of authority in national politics. Muslims from the south held significant elected positions, although they continued to be underrepresented in appointed local and provincial government positions. There were 10 Muslim and eight Christian appointed members of the National Legislative Assembly. General Sonthi Boonyaratkalin, the chairman of the Council for National Security until his October 1 retirement from the army and appointment as deputy prime minister for security affairs, is a Muslim, as is former interior minister Aree Wongarya, who resigned from the government on September 26.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, although government implementation of these laws was weak and officials sometimes engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflected that corruption was a problem.

On August 8, the criminal court issued an arrest warrant for a retired police officer in connection with the alleged bribery of two judges on the constitutional tribunal prior to its May 30 ruling dissolving the former ruling Thai Rak Thai Party. At year's end the case had not gone to trial.

In September and October, Information and Communication Technology Minister Sithichai Pokai-udom, Deputy Commerce Minister Oranut Osathananda, Interior Minister Aree Wongarya, Natural Resource and Environment Minister Kasem Sanitwong Na Ayuthaya, and Deputy Foreign Affairs Minister Sawanit Kongsiri resigned from the cabinet amid allegations by the NCCC that the ministers held shares in private companies above the legal limit. Education Minister Wichit Srisa-arn, Public Health Minister Mongkol Na Songkhla, and Deputy Finance Minister Sommai Phasee did not resign amid allegations by the NCCC that they too held shares above the legal limit.

On December 11, the NCCC determined that 13 former constitutional court judges, four former members of the Election Commission, and three former ombudsmen had illegally approved pay increases for themselves. At year's end prosecutors had not prosecuted the individuals named in the NCCC determination.

On December 13, Deputy Finance Minister Sommai Phasee resigned from the cabinet after a criminal court sentenced him to two years' imprisonment for the 2004 defamation of an official at Thai Maritime Navigation Limited.

During the year the NCCC, the Assets Examination Committee (AEC), and the Office of the Auditor-General investigated allegations of corruption committed by the

Thaksin government. On March 26, prosecutors filed charges against Thaksin in connection with the controversial \$2.1 billion (approximately 70 billion baht) sale of Shin Corporation in 2006. On June 21, prosecutors filed charges in connection with an allegedly improper land purchase in Bangkok. A criminal court issued an arrest warrant against Thaksin and his wife on September 3 when he failed to present himself at investigative proceedings concerning asset concealment allegations. Thaksin vowed to fight the charges in court, although at year's end court proceedings were pending Thaksin's return to the country.

On June 11, the AEC froze \$1.59 billion (52.9 billion baht) in assets belonging to Thaksin and his family, pending further investigations of Thaksin's wealth and court rulings on alleged corruption. In 12 additional actions between June 18 and November 19, the AEC froze an additional \$843 million (28.1 billion baht) in assets belonging to Thaksin and family.

In addition, the NCCC brought several other cases to court and reported that at the conclusion of its fiscal year in October, there were 5,619 cases pending investigation.

Public officials were subject to financial disclosure laws. Aside from the NCCC, AEC, and Office of the Auditor-General, the Anti-Money Laundering Office, Supreme Court, Ombudsman's Office, Administrative Court, and Ministry of Justice played a role in combating corruption.

Following the September 2006 coup, laws providing access to public information remained in force. There were no reports of government agencies denying citizens' requests for information. The new constitution provides access to public information. If a government agency denies a citizen's request for information, a petition may be made to the Official Information Commission, and petitioners may appeal the commission's preliminary ruling to a commission appellate panel. According to the commission, the vast majority of petitions were approved. Requests for public information may be denied for reasons of national security and public safety.

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

A wide variety of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. However, NGOs that dealt with sensitive political issues, such as opposition to government-sponsored development projects, faced periodic harassment. Human rights workers focusing on the violence in the southern provinces were particularly vulnerable to harassment and intimidation by government agents and militant groups. Very few NGOs were accorded tax-exempt status, which sometimes hampered the ability of domestic human rights organizations to secure adequate funding. In early May the government permitted the International Commission of Jurists (ICJ) to register an office, the first international human rights NGO reportedly permitted to do so.

On March 21, three unidentified gunmen reportedly shot and injured Sot Sutnak, an environmental activist in Surat Thani Province. According to police, Sot subsequently fled the province, fearing for his safety. At year's end no individuals had been arrested in connection with the shooting, and the police had suspended the investigation pending the victim's return to the province.

In mid-July military personnel reportedly intimidated human rights attorneys traveling with local and international journalists by searching their vehicle and attempting to confiscate documents and photographic equipment in Yala Province's Banang Sata District, where security forces earlier had detained villagers. Several days later authorities reportedly prohibited employees from the Working Group on Justice for Peace, a local human rights organization, from entering the village without a military escort.

In October an ICJ official was allegedly threatened in a Ranong court by an NHRC employee who was a witness in a case involving the detention of individuals suspected by the authorities of involvement in southern violence. Local military officials in the south also allegedly denounced human rights defenders and lawyers following these highly publicized October and November court proceedings, which led to the release of the detained individuals.

Officials from the Center for Redressing Problems for Highlanders alleged that military officials obstructed efforts to assist hill tribe villages in Chiang Mai and Chiang Rai by barring center representatives from entering hill tribe villages.

Some members of the domestic NGO Assembly of the Poor reported that the government threatened to file various criminal charges and otherwise intimidated them because of their activities.

Government officials met and cooperated with visitors from the ICRC and the Office of the UN High Commissioner for Human Rights throughout the year. There were several visits by international Muslim leaders, including Organization of the Islamic Conference officials, to the southern provinces, some at the invitation of the government.

The NHRC was active during the year. As an independent government entity, it submitted an annual evaluation of the human rights situation, proposed policies and recommendations for amending laws to the National Assembly, promoted measures to educate citizens on human rights, and investigated human rights abuses. The lack of power to prosecute or to punish violators prior to the promulgation of the new constitution, which provides for the NHRC to file suits on behalf of victims of human rights abuses in the courts, hindered the NHRC's ability to carry out its mandate. Modest staffing and resources also hampered NHRC progress. Unlike in 2006, NHRC commissioners reported that the government responded to most NHRC proposals or recommendations.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal treatment without respect to race, gender, religion, disability, language, or social status; however, in practice some discrimination existed, and government enforcement of equal protection statutes was uneven.

Women

Rape is illegal, although the government did not always enforce the law effectively. The National Legislative Assembly passed criminal code amendments that went into effect on September 21 permitting authorities to prosecute spousal rape. Between October 2006 and September, the police stated that 5,269 rape cases had been reported, including six cases where the victim was killed. Suspects were arrested in 2,411 of these cases, including two of the cases resulting in the victim's death. During this period the police arrested 1,587 suspects for alleged rapes in previous years, including four cases resulting in the victim's death.

NGOs believed rape to be a serious problem. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because state agencies tasked with addressing the problem were not adequately funded, and law enforcement agencies were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of female police officers in metropolitan Bangkok and in three other provinces.

The law specifies a range of penalties for rape or forcible sexual assault, depending on the age of the victim, the degree of assault, and the physical and mental condition of the victim after the assault; penalties range from four years' imprisonment to life as well as fines. The law also provides that any individual convicted for a second time for the same criminal rape offense within two years is liable to increased penalties for recidivism. Victims of sexual abuse were eligible to receive state financial aid of up to \$900 (30,000 baht).

Domestic violence against women was a significant problem. The National Legislative Assembly passed a law aimed at addressing domestic violence, which went into force on November 12. The law imposes a fine of up to \$180 (6,000 baht) or as much as six months' imprisonment for violators and provides authorities, with court approval, the power to prohibit offenders from remaining in their homes or contacting family members during trial. The law implements measures designed to facilitate the reporting of domestic violence complaints and reconciliation between the victim and the perpetrator. Additionally, the law restricts the media's reporting on domestic

violence cases in the judicial system.

A few domestic violence crimes were prosecuted under provisions for assault or violence against a person. Domestic violence frequently went unreported, and police often were reluctant to pursue reports of domestic violence. NGO-supported programs included emergency hot lines, temporary shelters, counseling services, and a television program to increase awareness of domestic violence, HIV/AIDS, and other issues involving women. The government's "one-stop" crisis centers, located in some state-run hospitals, continued to care for abused women and children, although several centers faced budget difficulties. State-run hospitals referred victims to external organizations when services at a hospital were not available.

Prostitution is illegal, although it is practiced openly throughout the country. Local officials with commercial interest in prostitution often protected the practice. Trafficking in women and children for prostitution was a serious problem. Government and NGO estimates of the number of women and children engaged in prostitution varied widely. A government survey during the year found that there were 54,719 adult prostitutes in registered entertainment establishments. However, NGOs believed there were between 200,000 and 300,000 prostitutes. The illegal nature of the work and the high incidence of part-time prostitutes made precise numbers difficult to assess.

There were reports that women were forced into prostitution in border areas, but the number of such cases was difficult to determine. Most prostitutes were not kept under physical constraint, but a large number worked under debt bondage. The law forbids child prostitution and subjects customers who patronize child prostitutes to criminal sanctions. NGOs and government agencies provided shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry.

Sex tourism was a problem. According to the Ministry of Social Development and Human Security, there were no laws to specifically address sex tourism. Rather, the criminal code, laws on prostitution, and laws combating trafficking in persons contain provisions designed to combat sex tourism.

The law makes sexual harassment illegal but covers only persons working in the formal sector. The law specifies fines of not more than \$600 (20,000 baht) for individuals convicted of sexually harassing female or minor employees. State employees are not covered by the law but may request a disciplinary investigation. NGOs claimed that the legal definition of harassment was vague and prosecution of harassment claims difficult. Since 2005 the civil service commission's sexual harassment and bullying hot line reported recording 27 sexual harassment complaints, although none were received during the year. Fourteen complaints were investigated, but prosecution or disciplinary action was rarely sought, because most callers wanted only to seek consultations or did not provide enough information to permit an investigation to be pursued. Some complaints may have been settled out of court.

The constitution provides for the equality of all citizens; however, some inequalities in the law remained. For example, a man may sue for divorce on the grounds that his wife committed adultery, but a woman faces the additional legal burden of proving that her husband has publicly acknowledged another woman as his wife. According to the Ministry of Social Development and Human Security, a foreign wife of a Thai man is eligible to apply for citizenship, while a foreign husband of a Thai woman is not eligible.

Police and military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. According to the Ministry of Social Development and Human Security, in 2006 women constituted 45 percent of the nonagricultural labor force. Women held 22 percent of managerial positions in publicly listed companies and 22 percent of high-level administrative positions in the government sector. Women were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and women were concentrated in lower-paying jobs. In practice women received lower pay for equal work in virtually all sectors of the economy.

We Move, a league of more than 50 women's organizations, advocated legal reforms to address inequities in the treatment of women. The organization actively campaigned for gender-equality clauses in legislation and the new constitution and encouraged women to seek elected positions on provincial government bodies.

Children

The constitution provides children equal protection.

According to NGOs, highlanders and other stateless individuals on occasion did not register births with the authorities because poverty and restricted mobility made it difficult to do so. These children would not automatically be considered citizens and must provide evidence of having been born in the country to receive citizenship. As noncitizens these unregistered children did not have access to a variety of government services, such as health care, and were prohibited from accessing professions reserved for citizens.

Education is compulsory for nine years, and school tuition is free for 12 years. In general girls and boys attended primary and secondary schools in equal numbers. According to the Ministry of Education, during the year an estimated 91 percent of children completed grade six, 93 percent of children who entered grade seven in 2004 completed grade nine, and 85 percent of children who entered grade 10 in 2004 completed grade 12. Girls are prohibited by religious practice from enrolling in religious schools restricted to Buddhist monks or novices. Violence in the southern provinces, and particularly violence aimed at public school teachers, sporadically forced the temporary closure of public schools and disrupted the educational process in those areas.

Boys and girls had equal access to state-provided medical care.

The law provides for the protection of children from abuse, and laws on rape and abandonment carry harsher penalties if the victim is a child. During the year the law was amended to impose a jail term of seven years' to life imprisonment for the statutory rape of children under the age of 15. In 2006 a nationwide, government-sponsored poll of high school students found that 5 percent of boys and 3 percent of girls had encountered sexual harassment. Police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse difficult. The law is designed to protect witnesses, victims, and offenders under the age of 18, and procedures with a judge's consent allow children to testify on videotape in private surroundings in the presence of a psychologist, psychiatrist, or other social worker. However, many judges declined to use videotaped testimony, citing technical problems and the inability to question accusers and defendants directly in court. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Trafficking in children, including for commercial sexual exploitation, remained a serious problem. Pedophilia continued, both by citizens and by foreign sex tourists. In 2006 the government, university researchers, and NGOs estimated that there were as many as 30,000 to 40,000 prostitutes under age 18, not including foreign migrants. The Prostitution Prevention and Suppression Act makes child prostitution illegal and provides for criminal punishment for those who use prostitutes under age 18. Parents who allow a child to enter into prostitution also are punishable. According to government officials, during the year there were no arrests or prosecutions of parents who allowed a child to enter into prostitution. Custom and tradition made it rare for children to accuse their parents in court proceedings.

On November 13, the Supreme Court upheld a 36-year prison sentence for former deputy Senate speaker Chalerm Promlert, who was convicted in January of the statutory rape of four girls ages 13 to 16 who had been trafficked in Pathum Thani.

On November 20, a criminal court sentenced two Bangkok primary school teachers to 50 years' imprisonment for sexually abusing at least five children ages six to eight between June and August 2006.

A 2005 study widely cited by NGOs and state agencies estimated that there were approximately 20,000 street children in major urban centers. The children were referred to government-provided shelters, but many, especially foreign migrants, reportedly avoided the shelters due to fear of being detained and expelled from the country. According to the government, citizen street children were sent to their home provinces and placed in occupational training centers.

Street children were often left out of national reports on child labor issues, and national statistics on street children often included only citizens.

Organized gangs frequently exploited street children as beggars or to sell flowers or other items. Many of these children were forced to turn over their daily earnings to the gang and were paid extremely low wages, often less than one dollar (34 baht) a day. There were reports of street children who were bought, rented, or forcibly "borrowed" from their parents or guardians to beg alongside women on sidewalks and overpasses. This was particularly true in areas of the capital frequented by tourists. Working conditions for these children were poor, leaving them exposed to the elements for long periods of time and vulnerable to further exploitation.

Children were tried in the same courts as adults and detained with adults in some regions of the country. There were 95 Juvenile Observation and Protection Centers for underage offenders, with at least one such facility located in each province.

There were many local NGOs that promoted children's rights. Employer organizations, such as the Employers' Confederation of Thailand, also were involved in child labor issues and received good support from the government.

Trafficking in Persons

The existing law prohibits some forms of trafficking in persons related to sexual exploitation. However, a new comprehensive antitrafficking law approved by Parliament on November 28 extends the definition of trafficking in persons to include trafficking for the purpose of labor exploitation. The new law was scheduled to go into effect in mid-2008 and for the first time would allow men above the age of 18 to be classified as trafficking victims. Under existing law, men above the age of 18 cannot be considered victims of trafficking.

There were reports throughout the year that persons were trafficked to, from, or within the country for a variety of purposes. Women and children (particularly girls) tended to be the most frequent trafficking victims for sexual exploitation. However, credible studies and evidence accumulated from a number of cases suggested that the trafficking of men for labor exploitation, especially migrant workers, was also prevalent, although to a lesser extent than for women. The trafficking of men, women, and children into such fields as commercial fisheries and seafood processing was significant in the Samut Sakhon region. Some portion (thought by the UN, NGOs, and the government to be a minority) of the estimated 200,000 to 300,000 sex industry workers in the country were either underage or in involuntary servitude or debt bondage. Young migrant women and girls, particularly from Laos, were found employed in indentured servitude.

Within the country women were trafficked from the impoverished northeast and the north to Bangkok for sexual exploitation. However, internal trafficking of women appeared to be on the decline, due to prevention programs and better economic opportunities. Women also were trafficked to Japan, Malaysia, Singapore, Bahrain, Australia, South Africa, Europe, and the United States, chiefly for sexual exploitation but also to some destinations for sweatshop labor. Men, especially migrant workers from Burma, were trafficked into the country for commercial fisheries; seafood processing; and farm, industrial, and construction labor. Prosecution of traffickers of men was complicated by the lack of coverage in the law.

Women and men were trafficked from Burma, Cambodia, the People's Republic of China (PRC), Laos, Russia, Uzbekistan, and eastern European nations for labor and sexual exploitation.

Entire families occasionally were trafficked for labor in sweatshops. Boys and girls were trafficked chiefly from Burma and Cambodia primarily for sexual exploitation and to work in begging gangs. Underage boys reportedly were brought into the country for specialized work in which small size was an advantage. According to domestic NGOs, girls between the ages of 12 and 18 continued to be trafficked from Burma, southern PRC, and Laos to work in the commercial sex industry. Social workers noted that young girls were prized because clients believed that they were free of sexually transmitted diseases. Persons trafficked from the PRC often were in transit to other countries, although women and girls from Yunnan Province generally were destined for brothels in the north. Victims of trafficking were often lured into the country or for transit to other countries with promises of restaurant or household work and then were pressured or physically forced into prostitution.

The lack of citizenship status for some hill tribe women and children was a strong risk factor for becoming victims of trafficking. Although members of this group were not a large percentage of trafficking victims, they continued to be found in disproportionately large numbers in situations entailing severe forms of trafficking.

Trafficking within the country and from neighboring countries into the country tended to be carried out by loosely organized small groups that often had close ties in the source communities. Burmese, Laotian, Cambodian, and Thai individuals were involved in labor trafficking along the border. Informal chains of acquaintance often were used to recruit victims. In some cases the traffickers themselves were former victims, particularly where the sex industry was the destination.

Most prostitutes were not kept under physical constraint, but a large number worked in debt bondage. Brothel procurers reportedly advanced parents a substantial sum against their child's future earnings. The child was then obligated to work in a brothel to repay the loan.

Because foreign women frequently were unable to speak the language and were considered illegal immigrants, they were particularly vulnerable to physical abuse and exploitation. Reports of labor trafficking also were received from Burmese migrant workers, who were ostensibly offered jobs in the food processing industry but were later induced or forcibly transported to work on fishing vessels. A September 2006 police raid on a shrimp processing factory in Samut Sakhon found hundreds of Burmese workers being held on the premises against their will. At year's end criminal charges had not been filed in this case, although a civil suit in November was decided in favor of 66 female Burmese classified by the government as trafficking victims. The victims received a one-time payment amounting to nine months' salary in penalties, back wages, and lost overtime pay. Male victims were returned to Burma or continued to work at the factory.

Penalties vary according to the age of the victim and the method of trafficking. In general the law provides for imprisonment of one year to life and fines of \$60 to \$1,200 (2,000 to 40,000 baht) for trafficking offenses committed against women and children. For offenses against children between 15 and 18 years of age, the potential punishment is three to 15 years' imprisonment and a fine of \$180 to \$1,200 (6,000 to 40,000 baht). For offenses against children under 15, the penalty ranges from five to 20 years' imprisonment and a fine of \$300 to \$1,200 (10,000 to 40,000 baht). If the offense is committed with deceit, threat, physical assault, immoral influence, or other mental coercion, the sentences and fines may be increased by one-third.

The RTP's Children and Women Welfare and Protection Division is charged with implementing the antitrafficking law, while the Ministry of Social Development and Human Security is charged with providing assistance and shelter to trafficking victims. Police reported that 152 trafficking-in-persons cases were filed in the judicial system during 2006, representing an increase from 146 cases in 2005. NGOs assisted some victims to obtain back wages from abusive employers; however, criminal prosecutions were scarce. In mid-2006 the 1951 antislavery law resulted in a conviction for the first time when the employer of an abused domestic servant was found guilty of enslavement. The verdict continued under appeal at year's end.

Illegal immigrants had no rights to legal counsel or health care if arrested. Memorandums of understanding (MOUs) among government agencies and between the government and domestic NGOs provided some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. The MOUs stated that the training of police officers would include instructions to treat such persons as victims of human trafficking rather than as illegal immigrant workers. Instead of being deported, they would become the responsibility of the public welfare department. However, implementation of the MOUs was erratic, due to insufficient training of law enforcement officials and their unfamiliarity with the law.

In general the government cooperated with governments of other countries in the investigation of transnational crimes, including trafficking. The country had bilateral antitrafficking MOUs with Cambodia and Laos. Receiving countries generally initiated trafficking case investigations. The government continued to investigate rings associated with smuggling female citizens abroad. The Ministry of Foreign Affairs assisted 258 Thai women and girls, most victims of sexual exploitation, to return from abroad in 2006 (down from 270 in 2005).

The law allows for extradition of citizens; however, no citizens were extradited for trafficking-related offenses. Requesting-country nationals charged with trafficking-

related crimes, including pedophilia, were extradited to Japan, Australia, Germany, and the United States.

There were reports of bribe taking by some low- or mid-level police officers facilitating the most severe forms of trafficking in persons. There was no evidence that high-level officials benefited from or protected the practice. Compromised local police protected brothels and other sex venues from surprise raids. Officials found complicit in any part of the illegal economy rarely were prosecuted but instead were moved to positions thought to limit opportunities for future corruption.

Several NGOs, both local and international, and government agencies worked with trafficking victims. The government worked with the International Labor Organization's International Program on the Elimination of Child Labor to implement projects to reduce the incidence of trafficking of children for labor and sexual exploitation. However, funds for fighting trafficking or aiding its victims were limited.

In general victims awaiting repatriation were brought to government-run shelters or, in the case of noncitizens, to NGO-run shelters. The repatriation process took up to six months. Between October 2006 and December 2007, the main government shelter in Bangkok received 476 women and children from neighboring countries and 205 citizens, including women found in voluntary prostitution and domestic abuse cases. There were no reliable statistics on how many of these persons were victims of trafficking. The government provided food, medical care, and limited psychological counseling.

The government screened trafficking victims from Cambodia and Burma through cooperation between the police and the International Organization for Migration. Law enforcement officials identified victims of trafficking and referred them to one of six regional government shelters.

Trafficking victims received some legal assistance from NGOs and Department of Welfare officials, and they generally were informed of the option of pursuing legal action against the trafficking perpetrators. Relatively few opted to do so; language barriers, illiteracy, distrust of government officials, the lengthy legal processes, and fear of the traffickers played a role. Trafficked victims residing illegally in the country were not allowed to obtain employment while awaiting repatriation, even if they were involved in legal proceedings against the trafficker.

The government continued cooperative arrangements with NGOs and local industries, especially the hotel industry, to encourage youths (particularly girls) to find employment outside the sex industry and other exploitative work. Vocational training programs aimed at high school students also received funding. Although the vocational training was not intended explicitly for trafficking prevention, the practical effect was to increase the range of choices for recent school graduates.

Persons with Disabilities

The interim constitution incorporated by reference laws that provided for newly constructed buildings to have facilities for persons with disabilities, although these laws were not uniformly enforced. The new constitution prohibits discrimination against persons with physical and mental disabilities in education and provides for access to health care and other state services. Activists continued to work to amend laws that allow employment discrimination against persons with disabilities.

In August the legislature amended a series of laws that prohibited employment discrimination based on disabilities in the public sector. On September 28, a new law went into effect that expands the types of disabilities covered by the law and facilitates legal recourse to seek redress for discrimination based on disability status. The law also elevates the status of a division in the Ministry of Social Development and Human Security tasked with protecting the rights of persons with disabilities. During the year the government launched a public awareness campaign to encourage such persons to vote in the December 23 elections and provided funding to NGOs working to address disability discrimination.

Persons with disabilities who register with the government are entitled to free medical examinations, wheelchairs, and crutches. The government provided five-year, interest-free small business loans for persons with disabilities.

The government maintained 43 special schools for students with disabilities. The Ministry of Education reported that there were 76 centers nationwide offering special education programs for preschool-age children. There also were nine government-operated and 15 NGO-operated training centers for persons with disabilities. In addition, there were eight private associations providing occasional trainings for persons with disabilities. There were reports of schools turning away students with disabilities, although the government indicated such incidents occurred because schools did not have appropriate facilities to accommodate such students.

Many persons with disabilities who found employment were subjected to wage discrimination. According to NGOs, government regulations require private firms either to hire one person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision was not enforced. Government officials estimated that as many as 40 percent of firms disregarded the law, but NGOs believed the number to be as high as 70 percent. Some state enterprises had discriminatory hiring policies.

National/Racial/Ethnic Minorities

Two groups--former belligerents in the Chinese civil war and their descendants living in the country since the end of the civil war and children of Vietnamese immigrants who resided in five northeastern provinces--lived under laws and regulations that could restrict their movement, residence, education, and occupation. According to the Ministry of Interior, during the year approximately 300 Chinese and some of their descendants and 30 of the Vietnamese and their descendants were granted full citizenship.

Indigenous People

Members of hill tribes without proper documentation continued to face restrictions on their movement, could not own land, and were not protected by labor laws, including minimum wage requirements.

In recent years regulations eased the requirements to establish citizenship by allowing a wider range of evidence, including testimony from references, and empowering local officials to decide cases. According to statistics from the Ministry of Interior, at least 82 percent of potentially eligible candidates received citizenship under the regulations. Although the government was supportive of efforts to register citizens and educate eligible hill tribe persons about their rights, activists reported that widespread corruption and inefficiency at all levels, including among highland village headmen and government officials, contributed to a backlog of pending citizenship applications.

Hill tribe members continued to face societal discrimination arising in part from the belief that they were involved in drug trafficking and environmental degradation.

Other Societal Abuses and Discrimination

Societal discrimination against persons with AIDS existed, most often in the form of a psychological stigma associated with rejection by family, friends, and the community, although intensive educational outreach efforts may have reduced this stigma in some communities. There were reports that some employers refused to hire persons who tested HIV-positive following employer-mandated blood screening.

NGOs complained that employers discriminated against male homosexuals after reviewing military documents that permanently labeled these individuals as having a mental disorder. According to the military, as many as 500 individuals every year were affected by the practice, which reportedly stopped in April. NGOs estimated that at least 10,000 individuals had been affected by the army regulations nationwide. The law did not permit transgendered individuals from changing their gender on identification documents.

Section 6 Worker Rights

The Right of Association

All private sector workers are allowed to form and join trade unions of their choosing without prior authorization; however, the Labor Relations Act and Labor Protection Act provide inadequate protection to workers who participate in union activities. There were several reported cases of workers being dismissed from their jobs for engaging in union activities. In some of the cases, the court ordered workers reinstated if grounds for their dismissal were proven inaccurate.

Civil servants, including public school teachers, are prohibited from forming or registering a union. They are allowed to form and register only as associations, which have no right to bargain collectively. Noncitizen migrant workers, whether registered or illegally present, do not have the right to form unions or serve as union officials; however, registered migrants may be members of unions organized and led by citizens. The Ministry of Labor requires foreign workers to renew their temporary work status annually. Few, if any, registered migrants joined unions. A substantial number of migrant workers worked in factories near border-crossing points, where labor laws were routinely violated and few inspections were carried out to verify compliance with the law.

Less than 4 percent of the total work force but nearly 11 percent of industrial workers and more than 50 percent of state enterprise workers were unionized. In 2006 there were 45 state enterprise unions with 180,500 members and 1,313 private unions with 335,600 members. Cultural traditions, unfamiliarity with the concept of industrial relations, efforts by the government and the private sector to diminish union cohesiveness, and the sizeable agricultural and informal sectors (where unions are not permitted) were cited as reasons for low rates of labor organization.

Union leaders and academic observers reported that employers often discriminated against workers seeking to organize unions. The law does not protect workers from employer reprisal for union activities prior to the registration of the union, and employers could exploit this loophole to defeat efforts at union organization. Employers used loopholes in the Labor Relations Act to fire union leaders prior to government certification of unions.

The State Enterprises Labor Relations Act (SELRA) restricts affiliations between state enterprise unions and private sector unions; however, union confederations can affiliate. The restriction against union affiliation effectively divided the trade union movement along state enterprise and private sector lines. However, unofficial contacts at the union level between public and private sector workers continued, and the government did not interfere with these relationships. Unions in state-owned enterprises generally operated independently of the government and other organizations. Internal conflicts, corruption, and a lack of leadership weakened the labor movement.

The law prohibits antiunion actions by employers; however, it also requires that union officials be full-time employees of the company or state enterprise, which makes them vulnerable to employers seeking to discipline workers who serve as union officials or who attempt to form unions. It also serves as a prohibition against permanent union staff, thus limiting the ability of unions to organize and be politically active. The Labor Relations Act allows only two outside government-licensed advisors to a union, and the Ministry of Labor often blocked the registration of labor advisors whom it deemed too activist. Union leaders and outside observers complained that this interfered with the ability to train union members and develop expertise in collective bargaining, leading to rapid turnover in union leaders.

Trade union leaders can be dismissed for any reason, provided severance payment is made. In such circumstances the law does not provide for reinstatement, and the requirement for severance pay was not always respected. The labor court reinstated employees in some cases where dismissal resulted from union activity and was illegal. However, because the reinstatement process was lengthy and costly for the employee, most cases were settled out of court through severance payments to the employee, and there were no punitive sanctions for employers.

On July 12, 18 workers were dismissed the day before the general meeting of the union they had organized in a company. In August the dismissed workers filed a petition before the Department of Labor and in September to the company, calling for reinstatement of the dismissed union leaders. The workers were reinstated on October 8.

b. The Right to Organize and Bargain Collectively

The law provides for the right of citizen private-sector workers to organize and bargain collectively; however, the government's efforts to protect this right were weak. The law defines the mechanisms for collective bargaining and for government-assisted conciliation and arbitration in cases under dispute. In practice genuine collective bargaining occurred only in a small fraction of workplaces, and in most instances it continued to be characterized by a lack of sophistication on the part of worker groups and autocratic attitudes on the part of employers. Wage increases for most workers came as a result of increases in the minimum wage rather than as a result of collective bargaining. The process of setting minimum wages locally through provincial tripartite wage committees may further limit union influence; many of these provincial committees excluded labor representatives and placed factory managers on the wage committees to represent worker interests. The minimum wage increase in the year again did not keep pace with inflation. The government sets wages for state enterprise employees under SELRA. Wages for civil servants are determined by the Ministry of Finance.

The government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision and did not do so during the year. Labor law also forbids strikes in "essential services," which are defined much more broadly than in the International Labor Organization (ILO) criteria and include sectors such as telecommunications, electricity, water supply, and public transportation as essential services. The law also prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. Employers are legally permitted to hire workers to replace strikers. SELRA provides public sector employees in state enterprises the same rights to organize as exist in the private sector. SELRA prohibits lockouts by employers and strikes by state enterprise workers. Strike action in the private sector was constrained by the legal requirement to call a general meeting of trade union members and to have a strike approved by 50 percent of unionists.

During the year there were two legal strikes involving more than 900 workers, and there were no lockouts reported. There were protests against mass layoffs without proper severance pay and the closure of factories, particularly garment factories. On July 11, approximately 4,000 laid-off workers at an import-export factory in Samut Prakarn protested the company's sudden closure. After a tripartite negotiation, the factory reopened and workers were reinstated. In August the factory was reportedly closed indefinitely. The laid-off workers received 61 percent of their entitled compensation from the sale of the factory's assets. Workers filed petitions with the Department of Labor Protection and Welfare for the balance of the compensation, which were under consideration by the court. The Department of Labor Protection and Welfare drew upon a welfare fund to pay \$630,000 (21 million baht) to partially compensate the workers during court proceedings.

In September 300 laid-off garment workers gathered in front of the Government House to protest the government's failure to settle labor disputes over compensation after the factory closures. In October the State Railways of Thailand (SRT) labor union staged a two-day nationwide strike to protest the government's controversial leases of SRT property to the private sector and SRT privatization schemes. The strike ended when the SRT committed to review the leases in question. At year's end the Council of State, Land Department, and Office of the Attorney-General were also reviewing the leases for final consideration by the cabinet.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector; however, there was documented abuse in the system, including evidence that awards to workers were ignored or not paid in full. Issues of collective labor relations are adjudicated through the Tripartite Labor Relations Committee and are subject to review by the labor courts. Workers may also seek redress through the NHRC. The law authorizes the Ministry of Labor to refer any private sector labor dispute for voluntary arbitration by a government-appointed group other than the Labor Relations Committee. Although the legal authority seldom was used, the ILO viewed this provision as acceptable only in defined essential services. Redress of grievances for state enterprise workers is handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders unjustly dismissed were awarded only back wages with no punitive sanctions against the employer. This limited any disincentive for employers to fire union organizers and activists.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs), in which wages and working conditions often were better than

national norms. However, union leaders alleged that employers' associations were organized to cooperate in discouraging union organization. Unions existed in the automobile and petroleum production facilities located in EPZs.

Labor brokerage firms used a "contract labor system" under which workers sign an annual contract. Contract laborers are not covered under the Labor Relations Act or the Labor Protection Act. These workers lacked the ability to bargain collectively over wage and benefit issues. Although they may perform the same work as direct-hire workers, they were paid less and received fewer, or no, benefits.

The Labor Relations Act prohibits noncitizens from participating in efforts to organize or register a union. The Labor Relations Act also prohibits any noncitizen from being an elected leader of a union committee. Therefore, as many as 700,000 legally registered migrant workers (in a total migrant worker population of more than two million) were effectively denied the right to form a trade union. Attempts by registered migrant workers to carry out work stoppages to demand minimum and back wages, along with better working conditions, often led to deportations, resulting from apparent collusion between factory owners and local government immigration officials.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children, except in the case of national emergency, war, or martial law; however, the government was unable to enforce these provisions effectively in the large informal sector.

Employers routinely kept possession of migrant workers' registration and travel documents, which restricted their travel outside of the work premises. There were no estimates of the number of such factories or sweatshops, but the large number of migrants from Burma, Cambodia, and Laos created opportunities for such abuse.

Despite the publication of ILO findings about migrant abusive labor conditions and the international pressure for progress on a high-profile shrimp processing factory case in Samut Sakhon, there continued to be reports of sweatshops or abusive treatment in livestock farms, seagoing trawlers, animal feed factories, and seafood processing factories in which employers prevented workers, primarily foreign migrants, from leaving the premises. On June 8, a Karen migrant worker was reportedly killed after attempting to flee an animal feed factory in Supanburi Province, where he allegedly had been subjected to forced labor and severe physical abuse by his employer in June. Four individuals were arrested, and at year's end public prosecutors were reportedly pursuing an investigation into the case.

Problems encountered by Thai citizens working overseas highlighted the problem of exploitative labor supply agencies that charged heavy and illegal recruitment fees often equal to all of a worker's first and second year earnings. In many cases recruited workers did not receive the terms they were promised and incurred significant debt. Local banks contributed to this practice by offering exorbitant loans to allow workers to pay for recruitment fees, which ranged from \$9,000 to \$30,000 (300,000 to one million baht) for workers traveling abroad.

d. Prohibition of Child Labor and Minimum Age for Employment

In general sufficient legal protections exist for children in the formal economic sector. The Labor Protection Act is the primary law regulating employment of children under the age of 18. Employment of children under 15 is prohibited. Children under 18 may not be employed in hazardous work, which includes any activity involving metalwork, hazardous chemicals, poisonous materials, radiation, and harmful temperatures or noise levels; exposure to toxic micro-organisms; operation of heavy equipment; work underground or underwater; and work in places where alcohol is sold or in hotels or massage parlors. The maximum penalty for violating these prohibitions is one year in prison. The law does not cover the agricultural and informal sectors, including domestic work, which employ the majority of persons in the workforce, including many child workers. The law allows for issuance of ministerial regulations to address sectors not covered in the law, and since 2004 regulations have increased protections for child workers in domestic and agricultural sector work. The minimum working age is coordinated with the mandatory national educational requirement.

Child labor remained a problem, particularly in agriculture, fishing, domestic work, and entertainment industries as well as street begging. Contradictory surveys by various government agencies, which largely ignored foreign children and those in illegal industries, made estimating the scope of the phenomenon difficult. According to a study funded by the Ministry of Labor and the ILO, child labor abuse of citizens was declining and citizen children made up less than 1 percent of the workforce. However, abuse of underage migrant workers, especially from Burma, was widespread and continued to increase.

NGOs reported that 2 to 4 percent of children between the ages of six and 14 worked illegally in urban areas; such children were at risk of becoming victims of other abuses of labor laws. Most underage workers in urban areas worked in the service sector, primarily in gasoline stations, small-scale industry, and restaurants. Child labor was less evident in larger, export-oriented factories. NGOs also reported extensive child labor in garment factories along the Burmese border, in Mae Sot Province. However, there was no comprehensive survey of child labor throughout the country, since NGOs often did not have access to shophouse factories. NGOs reported child domestic workers were predominantly migrants from Burma, Cambodia, and Laos. Most were in the country illegally, increasing their vulnerability to exploitation. Minimum wage and age provisions of the Labor Protection Act do not apply to domestic workers, some of whom were believed to be less than 15 years of age; however, recently issued regulations extended protections to children in the domestic and agricultural sectors. Thus far any effects of these regulations have not been measured.

The worst forms of child labor occurred in the country. Children (usually foreign) were exploited in street selling, begging, and prostitution in urban areas, sometimes in a system of debt bondage. Some were sold or otherwise trafficked by parents or other relatives. The government implemented guidelines in cooperation with the International Organization for Migration to improve the screening of trafficking victims among child beggars and street vendors from Cambodia or Burma. A 2004 ILO study noted that drug merchants in Bangkok used male children as delivery boys. Narcotics sellers preferred children because they were undemanding and were not charged as adults if arrested. Instead they were sent to police-run correctional homes.

The Ministry of Labor is the primary agency charged with enforcing child labor laws and policies. In 2006 there were 22,111 occupational health and safety inspections at 20,026 establishments. Of these, 2,681 establishments were found to be not complying with the law. Also in 2006 the Ministry of Labor inspected 656 establishments employing 8,806 child workers (under age 18), with seven establishments found to be using 558 underage workers (in most cases, under 15). Inspectors usually responded only to specific public complaints, reports of absences by teachers, or reports in newspapers. Their inclination when dealing with violators was to negotiate promises of better future behavior rather than seek prosecution and punishment. The legal requirement for a warrant hampered inspection of private homes to monitor the welfare of child domestic workers. In 2006 child labor inspections and investigations were performed in 482 firms; nine of the workplaces inspected revealed serious violations, such as employing underage workers.

e. Acceptable Conditions of Work

The minimum wage ranged from \$4.29 to \$5.73 (143 baht to 191 baht) per day, depending on the cost of living in various provinces. The minimum wage was set by provincial wage committees that sometimes included only employer representatives. This wage was not adequate to provide a decent standard of living for a worker and family. The official poverty rate was 94 cents (31 baht) per day, which permitted survival only in areas where subsistence agriculture was possible. The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, academics estimated that one-third of formal sector workers nationwide received less than the minimum wage, especially those in rural provinces. Despite encouragement of employees to report violations to labor inspectors, the enforcement of minimum wage laws was mixed. Many labor laws, including the minimum wage law, do not apply to undocumented workers, primarily hill tribe members and illegal aliens. An estimated one to two million unskilled and semiskilled migrant workers worked for wages that were approximately one-half the minimum wage.

The government mandated a uniform workweek of 48 hours, with a limit on overtime of 35 hours per week. Employees engaged in "dangerous" work, such as in the chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 35 hours per week and are not permitted overtime. The petrochemical industry is excluded from these regulations. There were reported incidents of employees forced to work overtime, with punishments and dismissals for workers who refused. Typically, migrant workers worked 12 hours per day, with one day off a month.

Working conditions varied widely. In 2006 the official rate of injury or disease from industrial accidents was 25.5 per 1,000 employees. This included 18.5 per 1,000 in minor disabilities (resulting in no more than three days of missed work) and seven per 1,000 with disabilities resulting in more than three days lost work (including permanent disabilities and deaths). There were 808 reported industrial deaths out of 204,257 reported incidents involving injury or worse. However, these rates applied only to industrial sector workers; the rate of incidents occurring in the larger informal and agricultural sectors and among migrant workers was thought to be higher. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. The approximately 50,000 young migrant women employed in textile factories along the Burma border in Mae Sot in Tak Province alone had limited and substandard medical options, and many suffered from stress-related disorders and complications from abortions. In medium-sized and large factories, government health and safety standards often were applied, but enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the Labor Protection Act include expanded protection for pregnant workers, which prohibit them from working on night shifts, overtime, and holidays, or working with dangerous machinery or on boats. Despite the act's prohibition on dismissing pregnant workers regardless of their nationalities, there were reports of employers of migrant women firing those who became pregnant.

The Ministry of Labor promulgates health and safety regulations regarding conditions of work; however, the inspection department enforced these standards ineffectively, due to a lack of human and financial resources. There is no law affording job protection to employees who remove themselves from dangerous work situations. According to the Ministry of Labor's Department of Labor Protection and Welfare, mining, consumer goods production, and the construction industry violated the most laws regarding workers' safety.

Redress for workers injured in industrial accidents was rarely timely or sufficient. Few court decisions were handed down against management or owners involved in workplace disasters.

Despite the new registration process, migrant workers, especially from Burma, remained particularly vulnerable to poor working conditions due to a lack of labor rights. According to Amnesty International, they were routinely paid well below the minimum wage, worked long hours in unhealthy conditions, and were at risk of arbitrary arrest and deportation. In addition, improper wage deductions for registration, health care, sick days, and employee errors were widespread.

The ability of migrant workers to register complaints about abusive labor practices was restricted in four provinces by a June Ministry of Interior decree that prohibited migrant workers from owning mobile telephones or riding motorcycles, leaving a worksite at night between the hours of 8 p.m. and 6 a.m., or gathering in assemblies of more than five persons, although the regulations were not rigorously enforced. There were many reports of migrant workers being detained by police officers and asked for bribes to avoid deportation. There continued to be credible reports of NGO personnel being assaulted or threatened while trying to assist migrant workers.

Enforcement of workplace laws and regulations is the responsibility of the Ministry of Labor's Department of Labor Protection and Welfare, which had fewer than 700 full-time inspectors to monitor more than 350,000 workplaces. Although the department had 1,336 officers legally defined as labor inspectors, the majority of them were in executive or administrative positions. The ministry reported that only 650 of them routinely performed inspection duties. Although the department undertook initiatives to hire additional inspectors and deputize local government officials, the shortage of human and other resources significantly impeded effective enforcement of labor laws.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Timor-Leste

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Timor-Leste is a multiparty parliamentary republic with a population of approximately 1.1 million. The country conducted two rounds of presidential voting in April and May and parliamentary elections in June. Voter participation was high, and the elections were considered generally free and fair. Former prime minister Jose Ramos-Horta was elected president; former president Xanana Gusmao, as head of a four-party coalition, became prime minister. The security forces included the UN Police (UNPOL) within the UN Integrated Mission in Timor-Leste (UNMIT) and the International Stabilization Force (ISF), neither of which were under the direct control of the government. While the civilian authorities generally maintained effective control of the national police (PNTL) and the armed forces (F-FDTL), 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, some human rights abuses persisted. Serious problems included: politically motivated and extrajudicial killings; police use of excessive force and abuse of authority; arbitrary arrest and detention; inefficient and understaffed courts that deprived citizens of due process and an expeditious and fair trial; and conditions in camps for internally displaced persons (IDPs) that endangered health, security, education, and women's and children's rights. Domestic violence, rape, and sexual abuse were also problems. Societal divisions based on political affiliation and regional origin continued to cause widespread discrimination, segregation, and violence, particularly in the capital.

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

Arbitrary or Unlawful Deprivation of Life

During the year security forces and other actors committed approximately nine killings, a decrease from 29 in 2006. Many of these killings were politically motivated.

On March 22, during a gang fight in Dili two off-duty PNTL officers fired into the air and into the crowd, killing one person and wounding another. The PNTL officers were detained but subsequently released by a judge who concluded that they acted in self-defense.

On June 3, an off-duty PNTL officer, Luis da Silva, shot and killed a civilian, Afonso Kudalai, involved in providing security for former president Gusmao who was campaigning in Viqueque, a stronghold of the longtime ruling party FRETILIN. Later that day a PNTL unit fired on a crowd agitated by Kudalai's death and killed two persons and wounded a third. The authorities suspended the PNTL Viqueque commander and opened a disciplinary investigation in relation to the violence. On August 17, the Baucau District Court sentenced da Silva to four and one-half years' imprisonment. Citing procedural issues, the Appeals Court overturned the decision, and at year's end da Silva was in detention awaiting a new trial.

On February 23, ISF forces shot and killed two persons at an IDP camp near the Dili airport. On March 4, ISF forces shot and killed five persons during an armed confrontation with a group of military police deserters. Following inquiries into both incidents, authorities determined that ISF actions were justified and in accordance with the established rules of engagement.

On November 29, a court found four F-FDTL soldiers guilty in the May 2006 killing of eight unarmed PNTL personnel who were under a flag of truce and UN escort. One of the four was sentenced to 12 years, one to 11 years, and two others to 10 years. At year's end the four were free pending the outcome of their appeals. The courts acquitted eight other F-FDTL personnel due to insufficient evidence.

In January the Dili District Court granted conditional release to the former independence fighter who killed a man at a roadblock in May 2006. By year's end there were no further developments in this case.

There were no developments in the following 2006 cases: the January killing of three men by Border Patrol Unit personnel; the May mob-killing of a police officer in Ermera District; and the May killing of six persons in a house set on fire by a mob. Investigations into other cases stemming from the April-May 2006 violence continued, notably the Major Alfredo Reinado case.

There were no developments in the case of the Colimau 2000 member killed in Bobonaro District in 2005.

Disappearance

There were no reports of politically motivated disappearances.

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and the government generally respected the prohibition against torture; however, there were incidents of cruel or degrading treatment by police and armed forces personnel, abuses against civilians during internal conflict; and abuses by vigilante and other societal groups.

During the year the majority of human rights abuse complaints submitted to the Office of the Provedor (ombudsman) involved the police, and the most common complaint was of use of violence or excessive force. During the year the ombudsman's office received 97 allegations of human rights violations. Of these, 23 were closed for reasons such as lack of jurisdiction; 28 were transferred to other organizations for further investigation; 15 were investigated and recommendations were submitted to the appropriate authorities; and investigations continued in 31 cases.

Human rights monitoring organizations and members of parliament noted some cases of excessive use of force by international forces and police, and referred several such cases to the ombudsman. No charges had been substantiated by year's end.

Delay or refusal by police to investigate allegations of rape or domestic violence was a common problem.

On March 11, an armed group wearing F-FDTL uniforms attacked the houses of six families in Dili, fired warning shots, and burned the homes, according to an UNPOL report. By year's end investigators had not determined whether the attack was carried out by civilians wearing F-FDTL uniforms to discredit the force, or by F-FDTL

personnel.

On March 13, six to 10 F-FDTL uniformed persons attacked several homes near the national hospital. Again it was not determined whether the attack was carried out by civilians wearing F-FDTL uniforms or by military personnel.

On March 16, F-FDTL members detained approximately 10 persons for disorderly conduct. When they were turned over to UNPOL, five appeared to have been beaten. At year's end there were no further developments in this case.

On April 7, PNTL officers in Covalima District shot and beat a civilian.

On May 25, UNMIT personnel in Bacau found a severely beaten and unconscious person in police detention. The victim was transported to a hospital.

In August approximately 200 homes were burned in Baucau and Viqueque. Nongovernmental organizations (NGOs) and international observers alleged that the violence appeared to be directed at opponents of FRETILIN.

Other abuses included illegal checkpoints set up to target persons based on geographic origin or membership in specific groups; intimidation of IDP camp residents by groups operating both in and outside of the camps; and attacks and intimidation of communities or individuals.

There were no known judicial or administrative actions in the following 2005 cases: the border police beating of an Indonesian citizen for illegally crossing the border; the police beating of two men and one woman arrested without warrant in Cailaco; the police beating and threatening of a man accused of assaulting the wife of a PNTL officer; the allegations of police abuse during an operation against the Comité Popular de Defesa-República Democrática; or the case of an F-FDTL captain and members of the military police detaining and beating a man involved in an alleged assault on the captain.

Prison and Detention Center Conditions

There were three government-run prisons, located in Dili, Baucau, and Gleno. During the year international forces maintained additional detention facilities in Dili. Prison conditions generally met international standards; however, government-run prison facilities were not well maintained.

UNMIT personnel noted allegations of mistreatment of detainees by prison guards during the first 72 hours of imprisonment, a lack of special facilities for the mentally ill who consequently were detained along with other prisoners, and police station detention cells not in compliance with international standards, which lacked access to water, sanitation facilities, bedding, and food.

The government and international forces permitted prison visits by the International Committee of the Red Cross and independent human rights observers. The ombudsman was able to conduct almost daily detainee monitoring in Dili and observed that "international forces are cooperating extremely well...allowing confidential access to detainees and providing regular information."

Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, there were many instances in which these provisions were violated. A number of persons were arrested and detained but ultimately not charged with crimes. In many cases this was explained by misunderstandings because an investigation exculpated the suspect or because no judge was available to conduct the required detention review. However, the circumstances of other cases suggested that law enforcement officers may have held detainees as punishment.

Role of the Police and Security Apparatus

The Dili-based police, which made up more than one-third of PNTL's total complement, disintegrated during the 2006 crisis. UNMIT and the government undertook to reform, restructure, and rebuild the PNTL. A central element was a "screening" to ensure that each of the approximately 3,000 PNTL officers was checked for integrity and any past crimes or misbehavior. Following screening, officers were to go through renewed training and a six-month UNPOL mentoring program. By year's end 1,250 officers had completed the UNPOL program.

Each of the country's 13 districts has a district PNTL commander who normally reports to the PNTL general commander. In spite of improvements due to the UNPOL training, the PNTL as an institution remained poorly equipped and under-trained, subject to numerous credible allegations of abuse of authority, mishandling of firearms, and corruption.

A number of police officers did not pass the vetting process and were on suspension pending further investigation. Outside Dili, 1,804 of 1,949 PNTL officers registered for and were undergoing screening. On April 22, UNMIT facilitated a human rights training session for senior PNTL commanders focused on strengthening accountability within the PNTL. The PNTL remained fragile and in need of UNMIT mentorship.

More than 1,000 ISF personnel from Australia and New Zealand supported the police and security forces.

The F-FDTL helped provide security at key Dili installations and escorted humanitarian convoys. On some occasions, in violation of clear rules of engagement requiring that the police (international or domestic) be called first in the event of any security threat, the F-FDTL resorted to firing warning shots as an initial response.

Arrest and Detention

The law requires judicial warrants prior to arrests or searches, except in exceptional circumstances; however, this provision was often violated. A chronic and extreme shortage of prosecutors and judges outside of the capital, further exacerbated by the crisis, contributed to police inability to obtain required warrants.

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of an arrest or detention and also to provide the right to a trial without undue delay. During these hearings, the judge may also determine whether the suspect should be released because evidence is lacking or the suspect is not considered a flight risk. Because of a shortage of magistrates, exacerbated during the year as many international judges departed before replacements arrived, some suspects were forced to wait longer than 72 hours for a hearing. However, according to human rights observers, police often simply released suspects after 72 hours in the absence of a judge to review the detention. In areas that did not have a local magistrate or where authorities lacked means to transport suspects to a hearing, this situation was particularly acute and contributed to an atmosphere of lawlessness and impunity.

The law provides for access to legal representation at all stages of the proceedings, and provisions exist for providing public defenders to indigent defendants. However, there was an extreme shortage of qualified public defenders, and many indigent defendants relied on lawyers provided by legal aid organizations. A number of defendants who were assigned public defenders reported that they had never seen their lawyer, and there were concerns that some low priority cases were being delayed indefinitely while suspects remained in pretrial detention.

In 2003 the Court of Appeals ruled that the pretrial detention limit of six months and the requirement that such detentions be reviewed every 30 days need not apply in

cases involving certain serious crimes; however, the 30-day review deadline was missed in a large number of cases involving less serious crimes, and a majority of the prison population consisted of pretrial detainees.

Denial of Fair Public Trial

The law provides that judges shall perform their duties "independently and impartially" without "improper influence" and requires public prosecutors to discharge their duties impartially. However, the country's judicial system faced a wide array of challenges including concerns about the impartiality of some judicial organs, a severe shortage of qualified personnel, a complex and multi-sourced legal regime, and the fact that the majority of the population does not speak Portuguese, the language in which the laws are written and the courts operate. Access to justice was notably constrained.

In 2006 two separate UN commissions concluded that the prosecutor general was insufficiently independent and viewed his constitutional accountability to the president as requiring that he "follow the policy of the latter in relation to prosecutions." During the year political and other extraneous considerations appeared to influence the proceedings and decisions of both the public prosecutor and the Court of Appeals.

The court system includes four district courts (Dili, Baucau, Suai, and Oecussi) and a national Court of Appeals in Dili. The Ministry of Justice is responsible for administration of the courts and prisons and also provides defense representation. The prosecutor general--independent of the Ministry of Justice--is responsible for initiating indictments and prosecutions. Until a supreme court is established, the Court of Appeals remains the country's highest tribunal.

Establishing justice sector institutions and recruiting and training qualified judges, prosecutors, and defense attorneys proved difficult, and the judicial system remained heavily dependent on international personnel. Although 11 or 12 probationary judge positions were filled by nationals during the year, international judges continued to serve as the primary judges in all cases involving potential sentences of five or more years. The public defender's office was staffed by seven national probationary defenders and six international public defenders. Private lawyers continued to represent the majority of defendants in the district courts.

In July, 27 national judges, prosecutors, and public defenders graduated from 18 months' training at the Legal Training Center supported by the UN Development Program (UNDP) and were sworn in. They will continue to work with 14 UNDP advisers. Another group of 15 professionals entered the Legal Training Center in January for one year of training. UNDP plans to provide advanced training for judges, updates on new legislation for magistrates, and training for court clerks.

Personnel shortages and administrative issues disproportionately affected operations of the Oecussi and Suai district courts, which operated at irregular intervals throughout the year. The trial process often was hindered by nonattendance of witnesses due to lack of proper notification or lack of transportation.

Proceedings in the Baucau District Court were suspended in September after a mob burned one of the court buildings.

The shortage of qualified prosecutors and technical staff in the office of the prosecutor general hampered its work and resulted in a large case backlog. International prosecutors continued to handle sensitive cases related to the 2006 crisis. There were three international prosecutors and nine national prosecutors, including the prosecutor general. At year's end there was a nationwide backlog of 4,000 cases. The Baucau and Dili district courts made progress in reducing their backlogs during the year; Oecussi and Suai did not. The length of time for cases to come to trial varied significantly, with some delayed for years and others tried within months of accusations.

Trial Procedures

The law provides for the right to a fair trial; however, the severe shortages of qualified personnel throughout the system led to some trials that did not fulfill prescribed legal procedures. Trials are before judges. Except in sensitive cases, such as crimes involving sexual assault, trials are public; however, this principle was inconsistently applied. Defendants have the right to be present at trials and to consult with an attorney in a timely manner. Attorneys are provided to indigent defendants. Defendants can confront hostile witnesses and present other witnesses and evidence. Defendants and their attorneys have access to government-held evidence. Defendants enjoy a presumption of innocence and have a right of appeal to higher courts.

The legal regime is complex and was inconsistently applied. Pending development of a complete set of national laws, Indonesian laws and the UN's transitional regulations remained in effect. The constitution stipulates that UN regulations supersede Indonesian laws; however, this was inconsistently applied. For example, in a 2004 decision the Court of Appeals declared that a UN executive order decriminalizing defamation did not effectively overrule an Indonesian law under which defamation is criminalized. There was concern that this decision could undermine the precedence of laws stipulated within the constitution. Also of concern was confusion regarding how to apply different sources of law, particularly in criminal cases where the Indonesian penal code remained in effect, but procedure was governed by a national criminal procedure code.

The Court of Appeals operated primarily in Portuguese. The UN regulations, many of which remained in force, were available in English, Portuguese, Indonesian, and Tetum (the language most widely spoken in the country). Laws enacted by parliament, intended to supplant Indonesian laws and UN regulations, were published in Portuguese but were seldom available in Tetum. Litigants, witnesses, and criminal defendants often were unable to read the new laws. Trials are required to be conducted in Portuguese and Tetum. However, the quality of translation provided in court varied widely, and translations to Tetum were often incomplete summaries.

As in previous years, concerns arose over the lack of witness-protection arrangements. In many violent crimes, witnesses were unwilling to testify because of the high potential for retribution against themselves or their families. Reports of witness intimidation and nonappearance of witnesses were widespread. Court personnel also reported increased concern regarding their own safety. This contributed to a widespread public perception that crimes could be committed with impunity, and that vigilantism or personal revenge were the only avenues available to address criminal accountability.

The 2006 UN Commission of Inquiry (COI) report recommended prosecution of over 60 individuals for criminal culpability in the April and May 2006 crisis, including: police officers who allegedly took part in deadly incidents; the former minister of interior, Rogerio Lobato; six F-FDTL officers; and one PNTL officer alleged to have been involved in the shooting of unarmed police in Dili; the top leadership of the F-FDTL; and the former minister of defense. In addition, it recommended investigation of more than 60 others for possible involvement in these crimes. The COI recommended prosecution of several civilians alleged to have received illegal weapons transfers or to have been involved in deadly incidents. The commission also recommended that dissident military police commander Major Alfredo Reinado be prosecuted for initiating deadly clashes with the F-FDTL. The COI recommended further investigation of several persons, including former prime minister, Mari Alkatiri, for alleged complicity in illegal arms transfers.

On March 7, a court convicted Lobato on charges including conspiracy, murder, misappropriation of public property, and the unauthorized importation or use of firearms. It sentenced him to seven and one-half years in prison. In August, however, he was allowed to leave the country to obtain medical treatment in Malaysia, and, at year's end, he remained in Malaysia.

Despite COI recommendations, the government had not brought charges against the F-FDTL commander or the former minister of defense. An investigation found that there was insufficient evidence to bring charges against Mari Alkatiri.

The Dili District Court tried three individuals alleged to have been involved in illegal weapons transfers. The court cleared one person of all charges, and released the two others conditionally.

The Serious Crimes Unit (SCU)--part of the Prosecutor General's Office--is responsible for investigations and indictments concerning crimes that occurred in 1999, particularly genocide, war crimes, crimes against humanity, murder, sexual offenses, and torture. In 2004 the SCU virtually ceased all operations. In 2000 the Special

Panels on Serious Crimes were established to try those charged with the mass killings and other gross human rights violations committed in 1999. The Special Panels were adjourned in 2005; however, the government can reconstitute them whenever needed. Several serious crimes suspects arrested in 2005 remained in pretrial detention.

The SCU worked closely with the Truth and Reconciliation Commission of Timor-Leste (CAVR), which presented its final report in 2005. The CAVR investigated less egregious human rights violations that occurred between April 1974 and October 1999. The CAVR also facilitated reconciliation between victims and perpetrators of these violations.

In 2004 the governments of Indonesia and Timor-Leste agreed to form a bilateral Truth and Friendship Commission to address human rights violations committed in Timor-Leste in 1999. Although the commissioners continued to meet throughout the year, little evident progress was made.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Civil judicial procedures were beset by the same problems encountered by the judicial system as a whole, including huge backlogs, a complex and inconsistently applied legal regime, and concerns about the impartiality of some judicial organs. Political influence has been brought to bear on civil cases involving business or property disputes. Court orders in some of these latter cases were not enforced. Alleged human rights abuses have been presented to the ombudsman. The ombudsman can sue government agencies/agents for alleged human rights abuses, however, there were no reports of such litigation.

Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice; however, there were a few reports of arbitrary interference with privacy and home.

There were cases of authorities entering homes without judicial authorization. For example, during an intensive effort by the international forces to recover illegal weapons, there were several reports that international military officers entered homes without securing warrants. Officers maintained that in some of these cases, warrants could not be obtained because the courts were not operating and in others they had to act expeditiously.

A 2003 land law broadly defines what property belongs to the government and has been criticized as disregarding many private claims.

A large number of Dili residents arrived as internal migrants after 1999 and occupied empty houses or built houses on empty lots. The majority of properties in Dili are deemed state property, and in previous years the government evicted persons from land identified as state property at times with little notice and with no due process.

Section 2 Respect for Civil Liberties, Including:

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 generally could criticize the government without reprisal, and a UN executive order decriminalized defamation. Unlike in past years, there were no reported violations of these rights.

There were three daily newspapers, three weeklies, and several newspapers that appeared sporadically. All frequently criticized the government and other political entities editorially.

Broadcast news, especially radio, was the most widely accessible news medium in the country, but its reach was limited. Few people outside of the capital regularly had access to any form of news. The Public Broadcast Service (PBS) owned and operated a radio station and a television station. The PBS radio service was available in all 13 districts but on a fluctuating and uncertain basis. The PBS television broadcast was available only in Dili and district capitals. In addition to the PBS radio station, there were 18 community radio stations, including at least one in each district. However, only a few operated dependably (in Los Palos, Baucau, and Dili), while many were frequently inoperative due to technical or resource problems, and most operated only a few hours a day. Few community radio stations provided any news content.

An UNMIT report noted that with regard to the elections, "media coverage, although generally limited in its outreach, was balanced."

Internet Freedom

Although Internet access in the country was limited, there were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

The government generally did not restrict academic freedom; however, a 2004 law requires that academic research on Tetum and other indigenous languages be approved by the National Language Institute. There were no reports during the year that this law had been applied to prevent academic research or to punish researchers. Nor were there any reports of interference with cultural events.

Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law on assembly and demonstrations establishes guidelines to obtain permits to hold demonstrations and requires police be notified four days in advance of any demonstration or strike. The law also stipulates that demonstrations cannot take place within 100 yards of government buildings or facilities, diplomatic facilities, or political party headquarters. In practice demonstrations were allowed to take place without the requisite advance notification, and the 100-yard regulation was rarely observed.

During the campaign periods, there were reports of parties being prevented from conducting election rallies or raising their party flag in opponents' strongholds. Such incidents sometimes took place with the involvement of local government officials or police.

Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice.

Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. An overwhelming majority of the population was Roman Catholic, and the Catholic Church was the dominant religious institution. There were small Protestant and Muslim minorities who were generally well integrated into society.

Societal Abuses and Discrimination

Outside of the capital, non-Catholic religious groups were at times regarded with suspicion.

There was no indigenous Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

Throughout the year, but especially during the February-March ISF search for the dissident former military police commander, Major Alfredo Reinado, and during the April-June presidential and parliamentary elections period, there were numerous incidents of dissident groups, gangs, and other groups preventing freedom of movement. As a result of the 2006 crisis, many Dili neighborhoods became associated with persons from eastern Timor-Leste or western Timor-Leste, with members of one group feeling threatened in the other group's areas.

Travel to the western enclave of Oecussi required not only visas but lengthy stops at various Indonesian military, police, immigration, and customs checkpoints.

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

Internally Displaced Persons (IDPs)

At year's end approximately 70,000 residents remained displaced from their homes as a result of the 2006 crisis. International donors worked with the government to make monthly food distributions in the camps. The Ministry of Health, with the support of international donors, set up mobile clinics to provide basic health care. In preparation for the rainy season, the International Organization for Migration provided 1,500 new tents to the camps, while the government distributed 2,000 new tents and 4,500 tarpaulins. By year's end the government's efforts to induce IDPs to leave the camps had extremely limited success.

Returning the IDPs to their homes and ensuring their health, education, and welfare remained one of the country's greatest challenges. Lack of land laws that safeguard property ownership, the absence of effective policing and security in many neighborhoods, and the large number of homes (more than 2,000) that were destroyed and remain abandoned were among the obstacles to resettling the IDP population.

Protection of Refugees

The laws provide 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 established a system for providing protection to refugees. The government granted refugee status or asylum in the past; however, there were concerns that the country's regulations governing asylum and refugee status may preclude genuine refugees from proving their eligibility for such status. For example, persons who wish to apply for asylum have only 72 hours to do so after entry into the country. Foreign nationals already present in the country have only 72 hours to initiate the process after the situation in their home country becomes too dangerous for them to return safely. A number of human rights and refugee advocates maintained that this time limit contravenes the 1951 convention. These advocates also expressed concern that no written explanation is required when an asylum application is denied. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution.

According to Office of the UN High Commissioner for Refugees (UNHCR), at year's end there were four pending asylum cases (one from Congo, one from Nigeria, and two from Vietnam). After promulgation of the 2003 Immigration and Asylum Act, the government assumed responsibility from the UNHCR for adjudicating asylum claims. Throughout the year UNHCR continued to mentor immigration officials to ensure that asylum applications were processed according to treaty guidelines. The government instituted a process whereby all asylum applications must be approved by the minister of the interior, which led to delays.

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 based on universal suffrage.

Elections and Political Participation

There were two rounds of presidential voting and a parliamentary election in April, May, and June respectively. Former prime minister Jose Ramos-Horta, who finished second in the first round of voting, was elected president with approximately 69 percent of the vote in the second round. The June parliamentary elections resulted in a government formed by the Alliance with a Parliamentary Majority (AMP), a coalition of four parties headed by former president Xanana Gusmao as prime minister, that collectively holds 37 seats in the 65-seat legislature. UNMIT and other international observers concluded that the elections enjoyed broad participation and were fair, and largely free from violence and intimidation.

FRETILIN emerged from the elections as the largest party in the legislature with 21 seats and maintained that it should therefore be permitted to form a government. When the president instead invited a coalition of smaller parties to form a government in early August, FRETILIN denounced the move as unconstitutional. Violence then erupted in Dili and other districts. By the following month, the political situation had stabilized, and FRETILIN returned to full participation as the opposition in parliament after a nearly month-long boycott.

There are 19 women in the 65-seat assembly. Women hold three senior ministerial positions--finance, justice, and social solidarity--one vice minister position, and one secretary of state position.

The country's small ethnic minority groups were well integrated into society. The number of members of these groups in parliament and other government positions was uncertain.

Government Corruption and Transparency

During the year there were credible reports of corruption in government institutions. The World Bank's 2006 worldwide governance indicators reflect that corruption was a serious problem. The law provides for criminal penalties in cases of official corruption. The ombudsman's office by law is the institution charged with leading national anticorruption activities and has the authority to refer cases for prosecution. During the year the ombudsman investigated the government procurement process. Most of the allegations of corruption investigated by the anticorruption division of the ombudsman's office involved mid-level officials but some were directed against senior officials. There continued to be credible reports of petty corruption at the nation's port. In addition customs and border officials were suspected of facilitating the smuggling of gasoline, tobacco, and alcohol across the border from Indonesia.

In 2006 the Office of the Inspector General, the government's internal oversight office, carried out investigations into eight cases of alleged maladministration or corruption and conducted two audits. At year's end these cases were still pending.

The country does not have financial disclosure laws. Prime Minister Gusmao promised that all cabinet officials in his government would complete financial disclosure documents, but by year's end none had done so.

The law stipulates that all legislation, supreme court decisions (when the court is established), and decisions made by government bodies must be published in the official gazette. If not published they are null and void. Regulations also provide for public access to court proceedings and decisions and the national budget and accounts. In practice there were concerns that public access to information was constrained. For example, the official gazette was published only in Portuguese, although by law it is to be published in Tetum as well. Moreover, its irregular publishing schedule and varying cost meant that few journalists, public servants, or others had regular access to it or knew how to access it.

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. In past years there were frictions between the government and human rights NGOs, but during the year government officials often were cooperative and responsive to their views.

NGOs played an active role in assisting and advising in the development of the country. National and international NGOs, in coordination with the ombudsman, monitored human rights issues in IDP camps.

The controversial 2003 Immigration and Asylum Act, which prohibits foreigners from taking part in political activities, could be interpreted to preclude foreigners and international NGOs from assisting labor unions or projects to promote the development of civil society, and it also could allow the government to restrict noncitizens' monitoring of the criminal or judicial systems. However, to date the act's provisions have not been applied this way.

In March 2006 the Office of the Ombudsman for Human Rights and Justice officially began its work. The ombudsman is responsible for the promotion of human rights, anticorruption, and good governance, and he has the power to investigate cases, monitor the observance of human rights, anticorruption, and good governance standards and make recommendations to the relevant authorities. The ombudsman's offices were located in Dili and had limited ability to conduct outreach or other activities in the districts. The Human Rights Monitoring Network, made up of 10 NGOs, closely cooperated with the ombudsman.

The governments of Indonesia and East Timor bilateral Truth and Friendship Commission, inaugurated in 2005, addressed human rights violations committed in East Timor in 1999; it is scheduled to issue its final report in 2008. The UN-appointed Commission of Experts' report criticized its terms of reference for contradicting international standards that prohibit impunity for crimes against humanity.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

Government regulations prohibit all forms of discrimination. Nonetheless, violence against women was a problem, and discrimination against women, persons with disabilities, and members of minority groups occurred.

Women

Although rape is a crime, failures to investigate or prosecute cases of alleged rape and sexual abuse were common as were long delays. For example, in July 2006 police in Suai relayed an investigation report to prosecutors for a sexual assault that had occurred earlier that month; there were no developments in this case since that initial report. An UNMIT report noted that the definition of rape may be too narrow to protect women's rights to personal integrity; spousal rape, for example, under applicable Indonesian law is not a crime.

Domestic violence against women was a significant problem and often was exacerbated by the reluctance of authorities to respond aggressively. Many authorities regarded it as a family issue rather than a criminal matter, and victims, under pressure to resolve cases within the family, were frequently reluctant to report abuse. In many cases a lack of resources was an element affecting official inaction and failure to investigate or prosecute cases involving violence against women. The police were particularly slow to pursue cases where the accused occupied a position of power. Police also at times came under pressure from community members to ignore cases of domestic violence or sexual abuse.

Cases of domestic violence and sexual crimes were generally handled by the PNTL's Vulnerable Persons Units (VPUs). Women's organizations assessed VPU performance as variable, with some officials actively pursuing cases while others preferred to handle them through mediation or as private family matters. During the year the Dili VPU resumed operations as a part of the Criminal Investigation Unit. Other districts' VPUs continued to operate but were severely constrained by lack of support and resources. UNMIT reported that women increasingly reported abuses to the police. In an August report the NGO Fokupers assessed 114 cases of domestic violence and 48 cases of sexual violence and noted that the formal justice system did not deal effectively with many of these cases.

Government regulations prohibit persons from organizing prostitution; however, under the Court of Appeals' interpretation of Indonesian laws, prostitution is not illegal. Nonetheless, in past years there were reports of women being arrested for prostitution.

There was no law prohibiting sexual harassment, and sexual harassment was reportedly widespread, particularly within some government ministries and the police.

There were no reports of gender-based employment discrimination; however, women usually deferred to men when job opportunities arose at the village level.

Some customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property.

In August the government created the position of secretary of state for gender issues in the prime minister's office to assume the responsibilities of the Office for the Promotion of Equality. A woman was appointed the first secretary of state. UNMIT's Gender Affairs Unit also monitors discrimination against women.

Women's organizations offered some assistance to female victims of violence, including: shelters for victims of domestic violence and incest; a safe room at the national hospital for victims of domestic violence and sexual assault; and escorts to judicial proceedings. Women's and human rights monitoring organizations formed a committee to monitor violence against women in the IDP camps and to train the camp managers to identify and pursue such cases.

Children

The constitution stipulates that primary education shall be compulsory and free; however, no legislation has been adopted establishing the minimum level of education to be provided, nor has a system been established to ensure provision of free education. According to UN statistics, approximately 20 percent of primary school-age children nationwide were not enrolled in school; the figures for rural areas were substantially worse than those for urban areas. Boys and girls had equal educational opportunity.

Many students living in IDP camps enrolled in schools near their camp. However, camp-based education was not provided at several IDP camps.

Boys and girls were afforded equal access to health care.

Violence against children and child sexual assault was a significant problem. Some commercial sexual exploitation of minors occurred. The Indonesian penal code, which remains in effect pending the promulgation of a national penal code, is ambiguous regarding statutory rape, specifying only that it is a crime to have intercourse with someone who has not reached the age of consent for marriage. This age is specified as 15 in the Indonesian civil code.

Thousands of children were exposed to risks as a result of their continued displacement. The capacity of the state, communities, and families to protect children was seriously challenged. According to the UN Children's Fund, many children showed signs of stress, including increased aggressive behavior, withdrawal, and difficulty sleeping.

Incidents of child abuse, including sexual abuse, were reported both inside and outside the IDP camps. The absence of the Dili police VPU during part of the year contributed to this problem. Underreporting of child abuse was a problem prior to the crisis, and with the breakdown in referral and reporting systems it is likely that the actual number of cases was far greater than those reported. Since the 2006 crisis there has been a significant drop in the number of reported cases.

Trafficking in Persons

The Immigration and Asylum Act prohibits trafficking in women and children, whether for prostitution or for forced labor; however, in recent years there were reports of women and girls trafficked into the country for prostitution. In addition, during the year there was increased concern that growing poverty created conditions conducive to domestic trafficking.

In 2004 a local NGO estimated that as many as 115 foreign prostitutes in the capital might be victims of trafficking. Several establishments in the capital were known commercial sex operations and were suspected of being involved in trafficking. Although there was no recent study, reliable sources estimated that the number of foreign trafficking victims remained approximately the same. Trafficking victims in the country were almost exclusively forced to work in the sex industry. Reports of trafficking for forced labor have not been verified.

There was widespread ignorance about the trafficking issue. Trafficking victims did not understand their rights or know who to contact for assistance. Police were uninformed about the nature of trafficking, how to recognize it, and how to handle cases. Potential trafficking victims in country were unaware of the risks of accepting overseas employment.

Although the country was not previously a source for trafficking victims, there was evidence during the year that it was being targeted. In January a Syrian and a Nigerian were arrested at the Indonesian border for attempting to traffic several Timorese women believed to be destined for Syria. It was generally thought that this scheme was intended to force the women into prostitution overseas. The suspects were released shortly after their arrest, but the victims were able to return to their villages.

While the police conducted raids on brothels and massage parlors in Dili during the year, credible reports indicated that some police and customs officials colluded with such establishments or with those who trafficked foreign women into the country to work in them.

During the year the prosecutor general's office began an antitrafficking education campaign, and the government financially supported other antitrafficking programs with assistance from local NGOs. The government cooperated with various international and NGO programs. The Aloia Foundation, an NGO headed by the prime minister's wife, Kirsty Sword Gusmao, provided assistance to female victims of trafficking and advised the government on trafficking-related issues.

Persons with Disabilities

Although the constitution protects the rights of persons with disabilities, the government had not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. There were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services; however, in many districts children with disabilities were unable to attend school due to accessibility problems. Training and vocational initiatives did not address the needs of persons with disabilities. During the year some persons with mental disabilities faced discriminatory or degrading treatment due in part to a lack of appropriate treatment resources or lack of referral to existing resources. Mentally ill persons were imprisoned with the general prison population and denied needed psychiatric care. UNMIT noted that hospital patients were unable to participate in the two rounds of presidential voting, but the electoral administration provided mobile polling stations so that they could vote in the parliamentary elections. An office in the Ministry of Social Solidarity is responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities

Tensions between persons from the eastern districts (Lorosae) and persons from the western districts (Loromonu) continued, although not at the heightened levels witnessed during the April and May 2006 national crisis.

Relations were generally good between the ethnic majority and members of several small ethnic minority groups; however, there were occasional reports of discrimination against ethnic Chinese (who constitute less than 1 percent of the population) and ethnic-Malay Muslims.

Other Societal Abuses and Discrimination

There were no reported cases of discrimination against persons with HIV/AIDS. The law makes no reference to homosexual activity. Gays and lesbians were not highly visible in the country, which was predominantly rural, traditional, and religious. There were no reports or documented instances of discrimination.

Section 6 Worker Rights

The Right of Association

The country has a labor code based on the International Labor Organization's standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally were slowed by inexperience, a lack of organizational skills, and the fact that more than 80 percent of the workforce was in the informal sector. In 2004 the government established official registration procedures for trade unions and employer organizations.

The Immigration and Asylum Act prohibits foreigners from participating in the administration of trade unions.

The Right to Organize and Bargain Collectively

While collective bargaining is permitted, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

The law provides for the right to strike, but few workers exercised this right during the year. The law on assembly and demonstrations could be used to inhibit strikes but has not been used in this way.

The government began a dialogue with dissident former military police commander Major Alfredo Reinado and the 600 F-FDTL personnel who went on strike from early February until March 2006 over working conditions and alleged discrimination. In March 2006 they were discharged from the F-FDTL for being chronically absent without leave after they refused orders to end the strike and return to their barracks. The underlying grievances and the subsequent activities of this group were important elements of the 2006 crisis.

There are no export processing zones.

Prohibition of Forced or Compulsory Labor

Government regulations prohibit forced and compulsory labor, including by children, and such practices were not known to occur.

Prohibition of Child Labor and Minimum Age for Employment

The labor code largely prohibits children under 18 from working; however, there are circumstances under which children between the ages of 15 and 18 can work, and there are even exceptional exemptions for children under 15. The minimum age did not apply to family-owned businesses, and many children worked in the agricultural sector. Child labor in the informal sector was a major problem. In practice enforcement of the labor code outside of Dili was limited.

Acceptable Conditions of Work

The labor code does not stipulate a minimum wage; however, employers generally used and employees expected a wage of \$85 (the U.S. dollar is the country's official currency) per month as a minimum standard. This amount provided a basic standard of living for a worker and family. The labor code provides for a standard workweek of 40 hours, and standard benefits such as overtime and leave, and minimum standards of worker health and safety. A National Labor Board and a Labor Relations Board exist, and there are no restrictions on the rights of workers to file complaints and seek redress. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear that they could avail themselves of this right in practice.

RESPECT FOR HUMAN RIGHTS

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Tonga

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

The Kingdom of Tonga is a constitutional monarchy with a population of approximately 110,000. Political life is dominated by King Siaosi Tupou V, the nobility, and a few prominent commoners. The most recent election for "people's representative" seats in Parliament, held in 2005, was deemed generally free and fair. There were several nascent political parties. A state of emergency declared following a November 2006 riot in the capital of Nuku'alofa remained in effect, but its scope was significantly reduced by year's end. The civilian authorities generally maintained effective control of the security forces.

Citizens lacked the ability to change their government. In May a nongovernmental organization (NGO) released a report documenting cases of physical abuse of detainees by security forces in the weeks following the November 2006 riot. Five members of Parliament (MPs) were charged with sedition related to public speeches they made at political rallies in November 2006. The government at times restricted the freedom of the media to cover political topics. Government corruption was a problem, and discrimination against women continued.

RESPECT FOR HUMAN RIGHTS

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

Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

Disappearance

There were no reports of politically motivated disappearances.

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, but in May the Community Para-Legal Taskforce, a local NGO, issued a report concerning abuse by the Tonga Defense Services (TDS) and police of some persons arrested following rioting in Nuku'alofa in November 2006. The report documented and illustrated cases of physical abuse of some detainees while in the custody of the security forces. Although the government stated it would investigate the charges, it did not conduct a public inquiry. Both the police and the TDS reported conducting internal inquiries, but no results were made public.

Prison and Detention Center Conditions

Prison conditions generally met international standards.

The Tonga Red Cross (TRC) monitored prison conditions through quarterly visits to the main prison. The TRC reported that the problem of temporary overcrowding that resulted from the arrest of a large number of persons following the November 2006 riot was resolved; most of those arrested and initially detained were released on bail.

Church representatives and family members were permitted to visit prisoners.

Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The security apparatus consists of the TDS and a police force. The minister of defense controls the TDS, which is responsible for external security and under the state of emergency shared domestic security duties with the police.

The minister of police and prisons directs the police force of approximately 470 persons. Incidents of bribe taking and other forms of corruption in the police force reportedly occurred. Reports of corruption and other public complaints are referred to a specific police office that conducts internal investigations and, if necessary, convenes a police tribunal. In March a police officer accused of brutality was convicted and dismissed from the force. Entry-level police training included training on corruption and transparency.

Powers under the state of emergency were gradually reduced during the year and at year's end were limited to police and military powers to "maintain public order" on the main island of Tongatapu. Somewhat more stringent public order provisions applied to a "proclaimed area" covering most of the business and governmental district of Nuku'alofa.

Arrest and Detention

The law provides for the right to judicial determination of the legality of arrest, and this was observed in practice during the year. Under normal circumstances police have the right to arrest detainees without a warrant, but detainees must be brought before a local magistrate within 24 hours. Under the Emergency Powers Regulation (EPR) introduced in November 2006, this period was temporarily extended to 48 hours. In May the extension was dropped with the introduction of a new, revised EPR. In most cases magistrates set bail. The law permits unlimited access by counsel and family members to detained persons. Indigent persons could obtain legal assistance from a donor-funded law center.

Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. The highest-ranking judges historically have been foreign nationals. Judges hold office "during good behavior" and otherwise cannot be dismissed during their terms.

The court system consists of the Court of Appeal, the Supreme Court (which has original jurisdiction over all major cases), the police magistrate's court, a general court, and a court of review for the Inland Revenue Department. The Court of Appeal is the highest court. The king's Privy Council presides over cases relating to disputes regarding titles of nobility and estate boundaries.

The TDS and the police force both have tribunals, which cannot try civilians.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law applies to all citizens without exception. A court may not summon anyone without providing a written indictment stating the charges. Trials are public, and defendants have the option to request a seven-member jury. Defendants are presumed innocent, may question witnesses against them, and have access to government-held evidence. Lawyers have free access to defendants. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner. Public defenders are not provided, but a donor-funded law center provides free legal advice and representation in court. Local lawyers occasionally take pro bono cases. Defendants have the right of appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Any violation of a human right provided for in the law can be addressed in the courts. There are no nonjudicial administrative remedies in such matters.

Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice. However, in the months following the November 2006 riot, police and TDS personnel were repeatedly accused of entering homes and occasionally seizing property without warrants in the course of investigations into looting.

Section 2 Respect for Civil Liberties, Including:

Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, but the government did not always respect these rights in practice. In January and February, five MPs were charged with sedition in relation to speeches they made at political rallies held just prior to the November 2006 riot. A court was scheduled to hear the cases in 2008.

In July a jury acquitted prodemocracy activist Sione Halafuka Vea, who had been charged with sedition for remarks he made at a political demonstration in November 2006.

There were no further developments in the 2005 case of former monopoly electric company employee Piveni Piukala, who was charged with illegally retrieving information from the company's computers after he publicly alleged excessively high salaries and other problems at the company. He remained free on bail and was residing outside the country at year's end.

The independent media were active and expressed a wide variety of views. In February TDS personnel, citing a legal prohibition on Sunday work for most businesses, instructed the staff of *Kele'a*, a newspaper owned by prodemocracy MP 'Akilisi Pohiva, to refrain from working on Sunday evenings. The editor and members of the prodemocracy movement interpreted this as intimidation by the TDS. The newspaper nevertheless continued to print articles characterized as "seditious" by the government. In March Tavake Fusimalohi, *Kele'a's* editor, was arrested and charged with sedition for publishing a weekly column that criticized the king; however, Fusimalohi died on December 3, before the case came to trial.

The Oceania Broadcasting Network, a television station operated by a prodemocracy activist, remained off the air during the year. The government ordered its shutdown in late 2006, ostensibly over a lease dispute.

Government-controlled media outlets were criticized for exercising self-censorship. In June, under government pressure, the Tonga Broadcasting Commission (TBC) imposed a ban on all reports on political topics and suspended coverage of parliamentary debates. TBC management stated it had received complaints from government ministers claiming bias in the TBC's Radio Tonga and TV Tonga reports. Despite TBC claims that the ban was officially lifted in July, restrictions remained effectively in place, with the TBC stating that, in light of political sensitivities since the riot, it refused to permit the airing of programs that might incite the population. Critics asserted that only prodemocracy material was banned, while progovernment material was freely permitted. In November the minister of the newly created Ministry of Information announced that the government was drawing up reporting guidelines for government-owned and TBC-controlled Radio Tonga and TV Tonga, ostensibly to assure balanced reporting. No guidelines were issued by year's end.

While there was little editorializing in the government-owned media, opposition opinion in the form of letters to the editor, along with government statements and letters, appeared regularly. From time to time, the national media carried comments, including some by prominent citizens, critical of government practices and policies.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Lack of infrastructure limited access to a certain extent, but there were Internet cafes available in the larger towns in all three of the country's main island groups.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly; however, through May 16, pursuant to the state of emergency, meetings of five or more persons were prohibited. Thereafter, the EPR was changed, and such gatherings were no longer explicitly prohibited. In practice police tolerated a peaceful demonstration that took place in October during an international conference, but a planned march into the capital's central district was prohibited.

In April and May, court hearings took place for 32 protesters charged with various offenses during a June 2006 protest march in Nuku'alofa. Most of the defendants were found guilty of obstructing police and were fined. Several defendants were acquitted.

Approximately 800 persons were arrested and more than 500 persons were charged with offenses relating to the November 2006 riot. Trials were ongoing during the year, and by year's end, 91 persons had been convicted and 15 acquitted.

Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice.

Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. However, the dominant Christian religion shows its influence in a constitutional provision that Sunday, the Sabbath, is to be "kept holy" and that no business can be conducted "except according to law." Although an exception was made for bakeries, hotels, resorts, and restaurants that are part of the tourism industry, the Sabbath day prohibition was otherwise enforced strictly for all businesses, regardless of the business owner's religion.

TBC guidelines require that religious programming on Radio Tonga be confined "within the limits of the mainstream Christian tradition." Although the TBC allowed the Church of Jesus Christ of Latter-day Saints and the Baha'i Faith to broadcast their programs on TV Tonga and Radio Tonga, it prohibited discussion of their founders and the basic tenets of their faiths. A government-owned newspaper occasionally carried news articles about Baha'i activities or events, as well as those of other faiths.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against religious groups, including anti-Semitic acts. There was no known resident Jewish community.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and prior to the declaration of a state of emergency in November 2006, the government generally respected these rights in practice. Under the ongoing state of emergency, the government restricted free movement in and around the government buildings and central business district in the capital. In December 2006 the government lifted injunctions placed on three persons, out of a list of 81, whose movements were restricted by the TDS for their alleged involvement in the November riot. By March the restrictions on the remaining 78 also had been removed.

The law does not prohibit forced exile, but the government did not employ it in practice.

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. The government provided protection against refoulement, the return of persons to a country where there is reason to believe they fear persecution. No persons were known to have applied for refugee status or temporary protection.

The government was not approached during the year by the Office of the UN High Commissioner for Refugees or other humanitarian organizations to assist with refugees or asylum seekers.

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

Citizens do not have the ability to change their leaders or system of government. The king and 33 hereditary nobles dominated government. The king appoints the prime minister. He also appoints and presides over the Privy Council (called the cabinet when the king or regent is not presiding), which makes major policy decisions. The council is composed of as many as 14 ministers and two regional governors; it includes nobles and commoners, all serving at the king's pleasure.

The unicameral Parliament consists of the cabinet members, nine nobles elected by their peers, and nine representatives elected by the general population. The king appoints the speaker from among the representatives of the nobles. Cabinet members and nobles often voted as a bloc.

Following the November 2006 riot, the king reaffirmed his support for political reforms. In August a tripartite committee of cabinet, nobles', and people's representatives issued a report to Parliament recommending major changes to the political system that would result in a sizable majority of people's representatives in Parliament, with Parliament choosing the prime minister from among its members. The prime minister would choose the cabinet, also from among the MPs. Before adjourning in October, Parliament endorsed the committee's report in general but put off implementation of recommended reforms until 2010.

Elections and Political Participation

Only citizens 21 years or older and resident in the country may vote. The 2005 elections for Parliament's nine people's representatives were deemed generally free and fair and resulted in a strong showing for prodemocracy candidates. Subsequent by-elections also resulted in the election of prodemocracy candidates.

Nobles and cabinet members associated with the royal family have traditionally dominated the Parliament and government. For several decades a democracy movement has been building, and since 2005 three proreform political parties have been registered.

There was one popularly elected woman in the 34-member Parliament. A woman may become queen, but the constitution forbids a woman to inherit hereditary noble titles or become a chief. There was one female government minister.

A single cabinet minister constituted the only minority participation in government.

Government Corruption and Transparency

The law provides criminal penalties for official corruption. The government generally implemented the law, but officials sometimes engaged in corrupt practices with

impunity. In July Parliament enacted legislation establishing a commissioner charged with investigating official corruption.

There were some reports of government corruption during the year. Government preferences appeared to unfairly benefit businesses associated with members of the royal family. In August, during parliamentary debates, it was revealed that royalties due to the government from a business associated with a member of the royal family had gone unpaid for a number of years. Lawyers assigned to the case by the attorney general, working together with the Department of Communications, were still investigating at year's end.

There is no law requiring financial disclosure for public officials.

The law does not specifically allow for public access to government information, and such access was a problem, especially when the government deemed the information sensitive.

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

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues. Government officials were somewhat cooperative and responsive to their views. Claims of mistreatment of detainees in the wake of the November 2006 riot led to ad hoc investigations by several domestic NGOs. There were no restrictions on operations by international human rights groups.

Government offices include a commission on public relations that investigates and seeks to resolve complaints about the government.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law confirms the special status of members of the royal family and the nobility. While social, cultural, and economic facilities were available to all citizens regardless of race and religion, members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status.

Women

Rape is punishable by up to 15 years' imprisonment. The law does not recognize spousal rape. The incidence of rape appeared to be infrequent but increasing, although there were no reliable statistics. Rape cases were investigated by the police and prosecuted under the penal code. There were seven rape convictions during the year.

Domestic violence against women seldom was publicized; however, according to local women's groups, it was very common. Domestic violence can be prosecuted under laws against physical assault, but in practice prosecutions were very rare. When abuse was reported to the police, victims were often encouraged to return to their homes. In August the police department established a Domestic Violence Unit. There were shelters for abused and troubled women, and the Free Wesleyan Church operated a hot line for women in trouble.

Under a Ministry of Health policy, a woman is not permitted to undergo a tubal ligation at a public hospital without the consent of her husband or, in his absence, her male next of kin.

Prostitution is not illegal, but activities such as soliciting in a public place, procuring, operating a brothel, and trading in women are criminal offenses. There were reports of women and underage girls engaging in commercial sexual activities. Sexual harassment is not a crime, but physical sexual assault could be prosecuted as indecent assault. Sexual harassment sometimes occurred, but it was not a major problem.

Inheritance laws, especially those concerned with land, discriminate against women. Women can lease land, but inheritance rights pass through the male heirs. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock takes precedence over the claim of the deceased's widow or daughter. If there are no male relatives, a widow is entitled to remain on her husband's land as long as she does not remarry or engage in sexual intercourse. During the year there were no further developments regarding proposals to amend the land laws to allow women to inherit registered land allotments in the absence of a male heir.

The Office of Women within the Ministry of Education, Women, and Culture is responsible for facilitation of development projects for women. During the year the office assisted women's groups in setting up work programs.

Women who rose to positions of leadership often had links with the nobility. Some female commoners held senior leadership positions in business and government, including those of governor of the Reserve Bank, permanent representative to the UN, and ambassador to the People's Republic of China (PRC).

The National Center for Women and Children, an NGO, focused on domestic abuse and improving the economic and social conditions of women and offered counseling to women in crisis. It also operated a safehouse for women and children. Several religiously affiliated women's groups also advocated for women's legal rights.

Children

The government was committed to children's rights and welfare, and it provided some funding for children's welfare. Education is compulsory from ages six to 14. Education was available for all children through high school, and most children attended school. According to a UN Children's Fund report (based on 2000-2005 data), net primary school enrollment rates were 92 percent for boys and 89 percent for girls. Education was free at the primary level, but students were required to pay school fees at the secondary level.

The government provided free basic medical care to children, and boys and girls had equal access to this care.

There were some reports of child abuse. During the year there were seven convictions for indecent assault of a minor and one conviction for battery of a minor. A public health facility identified 14 underage girls engaged in commercial sexual activities during the year.

Trafficking in Persons

While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no confirmed reports that persons were trafficked to, from, or within the country. There were unsubstantiated reports of employers holding the passports of Philippine nationals working in Tonga to prevent them from traveling. There also were unconfirmed reports that some nationals of the PRC working legally and illegally in the country may have been coerced into prostitution or other forced labor. The government did not investigate these reports.

Persons with Disabilities

There are no mandated provisions for services for persons with disabilities. The TRC operated a school for children with disabilities and conducted occasional home visits. There were complaints of discrimination in employment, education, and provision of other government services.

In March the Ministry of Education began a pilot program to assimilate children with disabilities into primary schools together with other children. The queen mother ran a center providing accommodation and meals for adults with disabilities. There were no programs to ensure access to buildings for persons with disabilities. An NGO advocating on behalf of persons with disabilities was very active.

There was no specific government agency with responsibility for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities

According to the Ministry of Labor, Commerce, and Industries, ownership and operation of food retail stores in the country has been legally restricted to citizens since 1978. Despite this policy the retail sector in many towns was increasingly dominated by foreigners, particularly Chinese nationals. The Immigration Department of the Ministry of Foreign Affairs attempted to enforce the restrictions in an effort to curb growing illegal immigration. Although some foreigners left as a result of the policy, others moved to nonrestricted sectors of the economy. There were reports of crime and societal discrimination targeted at members of the Chinese minority.

Other Societal Abuses and Discrimination

Sodomy is illegal, but there were no reports of prosecutions under this provision. Persons who engaged in openly homosexual behavior faced societal discrimination. There were no reports of discrimination against persons with HIV/AIDS.

Section 6 Worker Rights

The Right of Association

Workers gained the right to form unions under the 1964 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no official unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act; however, they have no formal bargaining rights under the act. The Public Servants Association (PSA) acted as a de facto union representing all government employees.

In July the acting PSA president was placed on leave from the Education Ministry for political activities in the workplace in violation of the civil service code of conduct. He had written a letter demanding the resignations of the Public Service Commission board for alleged bias against the PSA. In August the PSA's general secretary was dismissed from her position at the Department of Agriculture, also for allegedly breaching civil service code of conduct bans on political activity. The general secretary asserted her dismissal was politically motivated.

The Right to Organize and Bargain Collectively

The law permits collective bargaining, but there were no implementing regulations.

The Trade Unions Act provides workers with the right to strike, but implementing regulations were never formulated. There have been strikes but none took place during the year.

Labor laws apply in all sectors of the economy, including the two small export processing zones.

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 among citizens. There were a few unconfirmed reports that some foreign workers may have been coerced into prostitution or other forced labor.

Prohibition of Child Labor and Minimum Age for Employment

Although there is no legislation prohibiting child labor, the practice did not exist in the wage economy. A public health facility identified 14 underage girls involved in commercial sexual activities during the year.

Acceptable Conditions of Work

There is no minimum wage law, although there are government guidelines for wage levels. According to the Asian Development Bank, 23 percent of 16 communities surveyed in 2005 earned less than \$14 (T\$29) per person per week, which did not provide a decent standard of living for a worker and family. After a lengthy 2005 public service workers' strike, members of the large civil service received salary increases of 60 to 80 percent implemented in two phases, the first in late 2005 and the second in mid-2006, backdated to July 2005.

Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The ministry enforced laws and regulations in the wage sector of the economy, particularly on the main island of Tongatapu, but enforcement in the agricultural sector and on the outer islands was less consistent.

Few industries exposed workers to significant danger, and industrial accidents were rare. The government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.





Tuvalu

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Tuvalu is a parliamentary democracy with a population of approximately 11,000. In August 2006 citizens elected a 15-member unicameral parliament in generally free and fair elections. There were no formal political parties. Following the elections a loose coalition of eight members of parliament formed a new government and selected Apisai Ielemia as prime minister. The civilian authorities generally maintained effective control of the security force.

The government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of addressing individual instances of abuse. However, there were a few areas of concern. Traditional customs and social patterns led to and perpetuated religious and social discrimination, including discrimination against women. The government passed legislation in December that reasserted government administrative control over the national broadcasting authority.

RESPECT FOR HUMAN RIGHTS

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

Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

Disappearance

There were no reports of politically motivated disappearances.

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices, and there were no reports that government officials employed them.

Local hereditary elders exercise discretionary traditional punishment and disciplinary authority. This includes the right to inflict corporal punishment for infringement of customary rules, which can be at odds with the national law. However, during the year there were no reports of such corporal punishment.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by local church representatives.

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

Civilian authorities maintained effective control over the national police service, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. Some women's rights advocates criticized police for failing to take domestic violence seriously.

Arrest and Detention

The law permits arrests without warrants if a police officer witnesses the commission of an unlawful act or has "reasonable suspicion" that an offense is about to be committed. Police estimated that the majority of arrests were of this type. The police may hold a person arrested without a warrant for no more than 24 hours without a hearing before a magistrate. When a court issues an arrest warrant, the maximum permissible detention time before a hearing must be held is stated on the warrant and normally is one to two weeks.

There was a functioning system of bail. Arrested persons generally were promptly informed of the charges against them, although bureaucratic delays sometimes occurred because persons charged with serious offenses to be tried in the High Court must wait for its semiannual meeting. Detainees had prompt access to family members. The people's lawyer (public defender) was only available after the position was filled in September after an 11-month vacancy. Prior to that, those needing legal assistance were directed to the Office of the Attorney General. The country had no attorneys in private practice.

Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

There is a two-tier judicial system. Higher courts include the High Court, the Court of Appeal (which has never met), and the Sovereign in Council (Privy Council) in the United Kingdom. Lower courts consist of senior and resident magistrates, the island courts, and the land court. A nonresident expatriate chief justice appointed by the governor general presides over the High Court. Separate security, military or other parallel court systems do not exist in the country.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the lack of a public defender precluded High Court sessions during most of the year.

Procedural safeguards are based on British common law. The law provides for a presumption of innocence. Judges conduct trials and render verdicts; there are no juries. Trials are public and defendants have the right to be present. Although defendants have the right to consult with an attorney in a timely manner, access to an independent public defender, and be informed of the nature of the offenses with which they are charged, these rights could not be consistently exercised in the absence of a public defender for the first nine months of the year. Defendants have the right to confront witnesses, present evidence, and appeal convictions. The High Court met once during the year, resulting in significant delays in trials. The courts continued to have a large backlog of cases waiting to be heard.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Individuals may bring lawsuits seeking damages for, or cessation of, human rights violations.

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:

Freedom of Speech and Press

The law provides for freedom of speech and of the press, but the government occasionally limited these rights in practice.

Citizens were free to criticize the government publicly or privately without reprisal, and there were no reports that the government sought to impede such criticism.

There were no private, independent media. The Tuvalu Media Corporation (TMC), a public corporation, controlled the country's sole radio station. During the year there were claims that the government tried to influence TMC reporting. After disagreements over TMC's administration and editorial independence, the government decorporatized TMC in December, which made it a governmental department within the Prime Minister's Office, effective January 1, 2008.

TMC's monthly newsletter ceased publication during the year due to lack of funding. Local radio news, information, and music were broadcast seven hours per day. The remaining radio programming consisted of rebroadcasts of BBC programs. There was no television broadcast. Those few who can afford it received international satellite television broadcasts. DVDs and videotapes circulated freely and were widely available. Pornography is illegal. International media were allowed to operate freely.

Internet Freedom

There were no government restrictions on access to the Internet and no reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. However, the relative lack of telecommunications infrastructure, especially beyond the capital island of Funafuti, and relatively high costs restricted public access to and use of the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice; however, the High Court has held that traditional village authorities may restrict this right in certain circumstances.

The constitution also states that the laws are to be based on Christian principles. Despite official tolerance, religious homogeneity (more than 90 percent of citizens are members of the Church of Tuvalu, a Congregationalist denomination) and traditional structures of communal life posed practical barriers to the introduction and spread of other religious beliefs. The law requires churches to register, and they must have a minimum of 50 members to do so.

At year's end the Court of Appeal had not met to review the Brethren Church's appeal of the High Court's 2005 ruling permitting local traditional authorities to restrict the constitutional right to religious freedom in defense of traditional mores.

The High Court did not meet during the year to consider the 2006 decision by the council of elders on one island prohibiting the establishment or practice of "any new religion" not already established on the island and efforts to influence landowners to hinder the construction of a Brethren church. No new restrictions on the Brethren church were reported during the year.

Societal Abuses and Discrimination

There was a degree of societal intolerance toward religions other than established Christian denominations, particularly on the outer islands. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The constitution prohibits forced exile, and the government did not practice 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, but the government has not established a system for providing protection to refugees. The government did not grant refugee status or asylum. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations, but the issue of assisting refugees and asylum seekers did not arise during the year.

During the year there were no applications for refugee resettlement, asylum, or protection from refoulement, the return of persons to a country where there is reason to believe they feared persecution.

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 based on universal suffrage.

Elections and Political Participation

Citizens freely and directly elect a 15-member unicameral parliament with four-year terms. The country's eight main islands are each administered by a six-person council, also elected by universal suffrage to four-year terms. The minimum voting age is 18 years.

The August 2006 general elections were generally free and fair. An eight-member majority of the newly elected parliament selected Apisai Ielemia as prime minister.

There were no formal political parties; instead, parliament tended to divide between an ad hoc faction with at least the necessary eight votes to form a government and an informal opposition faction.

Participation by women in government and politics was limited, largely due to traditional perceptions of women's role in society. There were no female members of parliament or cabinet ministers. There were no members of minorities in the legislature or the cabinet.

Government Corruption and Transparency

The law provides criminal penalties for some forms of official corruption, such as theft; however laws against corruption are weak. There was widespread public perception that government transparency and accountability needed further improvement. During the year the government enacted a "leadership code" that outlines standards to which government officials are expected to adhere. Concerns remained that public funds sometimes were mismanaged and that government officials sometimes benefited unfairly from their positions, particularly in regard to overseas travel and related payments and benefits. During the year the government continued to ban most overseas travel by officials unless funded from abroad.

The law provides for annual, public ministerial reports, but publication was spotty and often nonexistent. The Auditor General's Office, responsible for providing government oversight, was underfunded and lacked serious parliamentary support. Consequently it had inadequate staff and resources. Public officials were not subject to financial disclosure laws.

There is no law providing for public access to government information. In practice the government was somewhat cooperative in responding to individual requests for such information.

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

There were no local NGOs focused entirely on human rights, although there were no known barriers to their establishment. Some human rights advocates, such as the Tuvalu National Council of Women, operated under the auspices of the Tuvalu Association of Nongovernmental Organizations, which was composed primarily of religious organizations. The people's lawyer monitored sentencing, equality before the law, and human rights issues in general. This institution, which at times was critical of the government, nonetheless was supported by the government, which frequently sought its advice. The few other local organizations involved in human rights issues generally operated without government restriction, investigating and publishing their findings on human rights cases. However, opportunities to publicize such information locally were severely limited due to the lack of local print and electronic media. Government officials were somewhat cooperative and responsive to local organizations' views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, color, and place of origin, and the government generally enforced these prohibitions. In 2005 the High Court stated that the omission of gender as a ground of discrimination in the constitution was deliberate, and there is no constitutional protection against gender discrimination. The Tuvalu National Council of Women urged the government to amend the law to specifically prohibit discrimination on the basis of gender, but no action was taken on this proposal during the year.

Women

Reports of violence against women were rare. However, women's rights observers reported that it was not possible to estimate accurately the incidence of rape and domestic violence, due to a lack of data. Law enforcement authorities reported a single arrest for rape; there were no trials for rape during the year. Rape is a crime punishable by a minimum sentence of five years' imprisonment, but spousal rape is not included in the legal definition of this offense.

The law does not specifically address domestic violence, and the issue was not a source of broad societal debate. Acts of domestic violence were prosecuted under the assault provisions of the penal code. The maximum penalty for common assault is six months' imprisonment, and for assault with actual bodily harm, it is five years. The police continued to practice an unofficial "no-drop" policy under which they do not drop charges in cases of domestic violence. Women's rights observers criticized the police for seeking to address violence against women using traditional and customary methods of reconciliation rather than criminal prosecution. There were no shelters or hot lines for abused women.

Prostitution and sex tourism are illegal and were not problems. The law does not specifically prohibit sexual harassment but prohibits indecent behavior, which includes lewd touching. Sexual harassment was not a significant problem.

There remained some areas in which the law contributes to an unequal status for women. For example, the land inheritance rights of the Tuvalu Lands Code are based in part on customary practices. If survivors cannot agree on the settlement of an estate, the law specifically provides for sons to inherit a greater share of property than daughters, although the law allows appeal of such property distributions. In addition the Native Lands Ordinance states that after the age of two any illegitimate child, if accepted by the father, shall reside with him or his relations.

In practice women held a subordinate societal position, constrained both by law in some areas and by traditional customary practices. Nonetheless, women increasingly held positions in the health and education sectors and were more active politically. In the wage economy, men held most higher-paying positions, while women held the clear majority of lower-paying clerical and retail positions.

Children

Government funding for children's welfare was reasonable within the context of its total available resources. Education was free, compulsory, and universal for children through age 13. Primary school enrollment rates were 87 percent for boys and 88 percent for girls, according to 2006 Asian Development Bank figures. However, only about one-third of secondary-school-age children (ages 15 to 19) attended school. The attendance rate for girls at the secondary school level was approximately 10 percent higher than that for boys and approximately 40 percent higher in the last two years of secondary school. Students competed for academic scholarships to attend universities overseas or participated in vocational training focusing on subsistence farming and maritime training for men, and computer or other business training for women. The government provided free medical care for children through age 18. Boys and girls had equal access to state-provided medical care.

The government did not compile child abuse statistics, and there were no reported cases of child abuse or child prostitution during the year. However, anecdotal evidence indicated that child abuse occurred. Corporal punishment, in the form of strokes of a cane or paddle, was common in schools.

Trafficking in Persons

The law does not prohibit all forms of trafficking in persons, but there were no reports that persons were trafficked to, from, or within the country. However, the law specifically prohibits procurement of persons within and across borders for purposes of prostitution.

Persons with Disabilities

The law does not prohibit discrimination on the basis of physical or mental disability. There were no known reports of discrimination against persons with disabilities in employment, education, or the provision of other state services, nor were there restrictions on the right of persons with disabilities to vote or participate in civic affairs. However, supplementary state services to address the special needs of persons with disabilities were very limited. There are no mandated accessibility provisions for persons with disabilities. There was no government agency with specific responsibility for protecting the rights of persons with disabilities.

Other Societal Abuses and Discrimination

Societal discrimination against persons based on sexual orientation was not common and there were no reports of such discrimination. Persons with HIV/AIDS faced some societal discrimination. Local agents of foreign companies that hired seafarers from Tuvalu to work abroad barred persons with HIV/AIDS from employment. The government and NGOs cooperated to inform the public about HIV/AIDS and to counter discrimination.

Section 6 Worker Rights

The Right of Association

The law provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public sector employees such as civil servants, teachers, and nurses were members of professional associations that did not have union status. The only registered trade union, the Tuvalu Seamen's Union, had approximately 1,200 members, some 400 of whom worked on foreign merchant vessels.

The Right to Organize and Bargain Collectively

The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice the few individual private sector employers set their own wage scales. Both the private and public sectors generally used nonconfrontational deliberations to resolve labor disputes.

The law provides for the right to strike, but no strike has ever taken place.

There are no export processing zones.

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.

Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children under age 14 from working in the formal labor market. The law also prohibits children under age 15 from industrial employment or work on any ship and stipulates that children under age 18 are not allowed to enter into formal contracts, including work contracts. The government effectively enforced these prohibitions. Children rarely were employed outside the traditional economy of subsistence farming and fishing.

Acceptable Conditions of Work

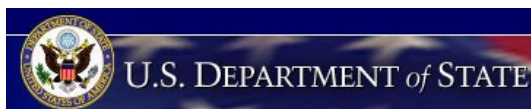
The minimum wage, set by the government, was barely sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public sector was \$114 (A\$130). Private sector wages were typically somewhat lower than the government's minimum wage rate.

The Ministry of Labor may specify the days and hours of work for workers in various industries. The law sets the workday at eight hours. However, very few persons worked in the formal economy, which was primarily on the main island; thus, the government did not have the occasion to enforce the law.

The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Labor is responsible for the enforcement of these regulations, but in practice it provided minimum enforcement. Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.



[BACK TO TOP](#)



Vanuatu

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor

March 11, 2008

Vanuatu is a multiparty parliamentary democracy with a population of approximately 218,000. The constitution provides for parliamentary elections based on universal suffrage every four years. Parliament elects the prime minister as the head of government. An electoral college comprising the members of Parliament (MPs) and the chairmen of the country's six provincial government councils elects the president, whose powers are largely ceremonial, as the head of state for a five-year term. The most recent elections, held in July 2004, were considered generally free and fair. Prime Minister Han Lini's government, a seven-party coalition, enjoyed relative political stability, surviving a vote of no confidence in June. The civilian authorities generally maintained effective control of the security forces; however, police officials on occasion have acted preemptively or at the direction of senior politicians.

The government generally respected the human rights of its citizens, but there were problems in some areas. These included poor prison conditions, arrests without warrants, an extremely slow judicial process, government corruption, and violence and discrimination against women.

RESPECT FOR HUMAN RIGHTS

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

Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

On March 3, three persons were killed and 20 injured after violence erupted in the Blacksands and Anabrou squatter settlements in Port Vila between rival groups from Tanna and Ambrym islands. The violence broke out when Tanna Islanders armed with clubs and machetes attacked a group of Ambrym Islanders; the Tannese suspected members of the Ambrym group of causing the death of a Tannese woman through use of black magic. Police arrested 144 persons in connection with the violence. Of those arrested, 88 were released due to lack of evidence; 56 were charged in the incident and at year's end were released on bail awaiting a scheduled February 2008 court hearing. The same day the government declared a state of emergency in Port Vila, which remained in effect until March 18.

Disappearance

There were no reports of politically motivated disappearances.

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices, and there were no reports that government officials employed torture; however, there were some reports of police abuse of criminal suspects.

Prison and Detention Center Conditions

Conditions at the three prisons in Port Vila improved slightly during the year with foreign donor funding but remained below international standards. Security at all facilities was poor, and there were frequent prisoner escapes. Male inmates were incarcerated in overcrowded facilities. Pretrial detainees usually were held in the police jail rather than the prisons. In March police approved the use of the police paramilitary gymnasium as a short-term detention center to relieve overcrowding in the jail. Local and international human rights groups were allowed to visit the center. Persons deemed mentally unfit to stand trial were held with the general prison population. Juveniles were held together with adults.

The government permitted prison visits by independent human rights observers, although there were no requests for visits during the year.

Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The commissioner of police heads the police force of approximately 500 officers, including a police maritime wing and the paramilitary Vanuatu Mobile Force. Police effectiveness was hampered by a lack of resources and by internal rivalries. During the year foreign assistance was provided through the Police Force Capacity Building Project to address some of the problems confronting the force. Actions taken under the project included recruitment of new officers, establishment of additional police posts on outer islands and in rural areas, and police building repairs and maintenance. Corruption and impunity were not major problems; however, there were some instances of corruption, and there have been some instances in which police have acted without proper authorization at the behest of politicians. During the year four police officers implicated in a fraud case involving high-level government employees and Indo-Fijians were suspended, and the case remained under investigation at year's end.

Arrest and Detention

A warrant issued by a court is required for an arrest; however, police made a small number of arrests without warrants during the year. The constitutional provision that suspects must be informed of the charges against them generally was observed in practice.

A system of bail operated effectively; however, some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency. The ratio of pretrial detainees to the total prison population was relatively high. Judges, prosecutors, and police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years could pass before a case is brought to trial. Detainees were allowed prompt access to counsel and family members. A public defender's office provides counsel to indigent defendants.

Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Magistrates' courts deal with most routine legal matters. Island courts are present at the local level, with limited jurisdiction in civil and criminal matters. The Supreme Court, an intermediate-level court, has unlimited jurisdiction over criminal and civil matters and considers appeals from the magistrates' courts. The Appeals Court is the highest appellate court. Judges cannot be removed without cause.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judiciary was relatively weak and inefficient, and some defendants spent extended periods in pretrial detention as a result. The judicial system is derived from British common law. Judges conduct trials and render verdicts; there are no juries. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right to counsel, a right to judicial determination of the validity of arrest or detention, a right to question witnesses and access government-held evidence, and a right of appeal. The public defender's office provides free legal counsel to indigent defendants.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters; however, police were reluctant to enforce domestic court orders.

Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice.

During the year most international correspondents, government-owned media, and the independent press reported criticisms of political leaders freely and apparently without hindrance. However, at times some individual politicians and their supporters have attempted to intimidate the media, although with no apparent effect.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail; however, cost and lack of infrastructure limited public access to the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

During a two-week state of emergency declared March 3 after violence broke out between groups of rival islanders in Port Vila, public meetings of three or more persons were prohibited.

Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. The government provided some financial assistance for the construction of churches affiliated with member denominations of the Vanuatu Christian Council, provided grants to church-operated schools, and paid teachers' salaries at church-operated schools in existence since the country's independence. These benefits were not available to non-Christian religious organizations. Government schools also scheduled weekly religious education classes conducted by representatives of Council churches. Students whose parents did not wish them to attend the classes were excused. Non-Christian religions were not permitted to give religious instruction in public schools.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against religious groups, although some churches and individuals objected to missionary activities of nontraditional religious groups. The country's Jewish community was limited to a few expatriates, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law does not address forced exile, but the government did not employ 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. The government did not grant refugee status or asylum. In practice the government did not provide protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. The government had no association with the Office of the UN High Commissioner for Refugees.

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

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

Elections and Political Participation

National parliamentary elections were last held in July 2004 and were considered generally free and fair. Due to insufficient evidence, no further action was taken against alleged participants in the burning of several ballot boxes on the island of Tanna during the elections. Parliamentary majorities have been unstable, with frequent motions for votes of no confidence in the government.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There were two women in the 52-member Parliament. There was one woman in the cabinet.

There were at least two members of minorities (non-Melanesians) in Parliament, one of whom was in the cabinet.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity.

There were reports of government corruption during the year. The law provides for the appointment of public servants on the basis of merit; however, in practice political interference at times has hampered the effective operation of the civil service.

During the year three People's Progressive Party (PPP) MPs and a former senior official in the Ministry of Foreign Affairs were charged with forgery and theft in connection with a large-scale fraud scheme involving electoral development funds. The cases were adjourned for hearing in 2008. The case also resulted in the removal from office of Foreign Minister and Deputy Prime Minister Sao Kilman. In July, following disclosure of the alleged PPP involvement in the fraud scheme, the PPP was removed from the coalition government.

Public officials are subject to a leadership code of conduct, which includes financial disclosure requirements. The ombudsman's office is responsible for combating government corruption.

No law provides for public access to government information. In practice governmental response to requests for information from the media was inconsistent.

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

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

The president appoints a government ombudsman to a five-year term in consultation with other political leaders. Since its establishment, the ombudsman's office has issued a number of reports critical of government institutions and officials. However, it did not have adequate resources or independent power to prosecute, and the results of its investigations may not be used as evidence in court proceedings.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, place of origin, language, or sex; however, women remained victims of discrimination in the tradition-based society.

Women

Violence against women, particularly domestic violence, was common, although no accurate statistics existed. Although rape is a crime, with a maximum penalty of life imprisonment, spousal rape is not cited specifically in the law, and police frequently were reluctant to intervene in what were considered domestic matters.

There are no specific laws against domestic violence; courts occasionally prosecuted offenders using common-law assault as a basis for prosecution. Magistrates have authority to issue domestic violence protection orders, but most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse. There were no government programs to address domestic violence, and media attention to the abuse was limited. Churches and other nongovernmental organizations (NGOs) ran facilities for abused women. NGOs such as the National Council of Women and the Vanuatu Women's Center also played an important role in educating the public about domestic violence but did not have sufficient funding to fully implement their programs.

Prostitution is illegal and was not regarded as a serious problem. Although there is no law against sex tourism, no incidents were reported. Sexual harassment is not illegal and was a problem.

While women have equal rights under the law, they were only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. The majority of women entered into marriage through "bride-price payment," a practice that encouraged men to view women as property. Women also were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women. Women interested in running for public office received encouragement and help from the NGO Vanuatu Women in Politics.

Children

Access to education was limited, and school attendance was not compulsory. Less than 35 percent of all children advanced beyond elementary school due to a shortage of schools and teachers beyond grade six. Boys tended to receive more education than girls. Although attendance rates were similar in the early primary grades (approximately 79 percent for boys and 78 percent for girls), fewer girls advanced to the higher grades. A significant portion of the population, perhaps as high as 50 percent, was functionally illiterate. Medical services were free, and there was an immunization program; boys and girls had equal access. However, the government had few resources for medical care, particularly in outlying provinces where there were no hospitals.

Child abuse was not believed to be extensive; however, the government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years, but no statistics were available. Children generally were protected within the traditional extended family system.

Members of the extended family played an active role in a child's development. Virtually no children were homeless or abandoned.

The legal age for marriage is 21, although boys between 18 and 21 and girls between 16 and 21 may marry with parental permission. In practice, in rural areas and some outer islands, some children married at younger ages.

Trafficking in Persons

The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities

There is no law specifically prohibiting discrimination against persons with physical or mental disabilities. There was a national policy designed to protect the rights of persons with disabilities, but the government did not implement it effectively. There were no special programs to assist persons with disabilities and no legislation mandating access to buildings for them. Their protection and care was left to the traditional extended family and to NGOs. Due to high rates of unemployment, there were few jobs available for persons with disabilities. Persons with mental illness generally did not receive specialized care; they usually were attended by members of their extended families.

National/Racial/Ethnic Minorities

Most of the population is Melanesian. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although prime real estate was increasingly leased to others. Within the limits of this system of land tenure, there generally were no reports of discrimination against ethnic minorities; however, only indigenous farmers can legally grow kava, a native herb, for export.

Other Societal Abuses and Discrimination

There were no reports of societal violence or discrimination against homosexuals or persons with HIV/AIDS.

Section 6 Worker Rights

The Right of Association

The law provides all workers with the right to organize and join unions, and workers exercised this right in practice. Approximately 14,300 persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately 1,900. The two existing trade unions, the Vanuatu Teacher's Union and the Vanuatu National Worker's Union, were independent of the government and grouped under an umbrella organization, the Vanuatu Council of Trade Unions. The high percentage of the population still engaged in subsistence agriculture and fishing (approximately 70 percent) precluded extensive union activity. Unions require government permission to affiliate with international labor federations, but the government has not denied any union such permission.

While the law does not require union recognition, it prohibits antiunion discrimination once a union is recognized. Complaints of antiunion discrimination are referred to the Department of Labor. In 2006 there were reports by unionists of employer violations of ratified International Labor Organization conventions; although all investigations of these reports were ongoing, as of year's end no further action was taken.

The Right to Organize and Bargain Collectively

Unions exercised the right to organize and bargain collectively. They negotiated wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member arbitration board appointed by the minister of home affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the magistrates' courts. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without arbitration. There have been strikes in the past, but there were none during the year.

The law prohibits retaliation for legal strikes. In the case of private sector employees, complaints of violations are referred to the Department of Labor for conciliation and arbitration. In the public sector, the Public Service Commission handles complaints of violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers.

There are no export processing zones.

Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children under age 12 from working outside family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age was restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. The Department of Labor effectively enforced these laws.

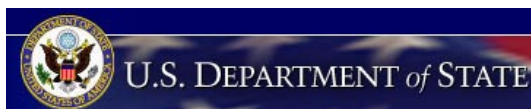
Acceptable Conditions of Work

The Department of Labor effectively enforced a legislated minimum wage of approximately \$212 (20,000 vatu) per month. The minimum wage did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing their incomes through subsistence farming. Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, such as a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act provides for 1½ to 1¾ times the normal rate of pay for overtime work.

The Employment Act, enforced by the Department of Labor, includes provisions for safety standards. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Department of Labor could not enforce the law fully. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



Vietnam

Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

The Socialist Republic of Vietnam, with a population of approximately 84 million, is an authoritarian state ruled by the Communist Party of Vietnam (CPV). The CPV's constitutionally mandated primacy and the continued occupancy of all key government positions by party members allows it to set national policy. However, the CPV continued to reduce its formal involvement in government operations and allowed the government to exercise discretion in implementing policy. There were no other legal political parties. The most recent National Assembly elections, held in May, were neither free nor fair, since all candidates were vetted by the CPV's Vietnam Fatherland Front (VFF), an umbrella group that monitored the country's popular organizations. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained unsatisfactory. Citizens could not change their government, and political opposition movements were prohibited. The government continued its crackdown on dissent, arresting a number of political activists and disrupting nascent opposition organizations, causing several political dissidents to flee the country. Police sometimes abused suspects during arrest, detention, and interrogation. Prison conditions were often severe. Individuals were arbitrarily detained for political activities and were denied the right to fair and expeditious trials. The government reinforced its controls over the press and the Internet and continued to limit citizens' privacy rights and freedom of speech, assembly, movement, and association. Overall respect for religious freedom improved during the year, but the government persisted in placing restrictions on the political activities of religious groups. The government maintained its prohibition of independent human rights organizations. Violence and discrimination against women remained a problem. Trafficking in women and children for purposes of prostitution continued. Some ethnic minority groups suffered societal discrimination. The government limited workers' rights, especially to organize independently, and arrested or harassed several labor activists.

RESPECT FOR HUMAN RIGHTS

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

Arbitrary or Unlawful Deprivation of Life

There were no substantiated reports that the government or its agents committed any politically motivated killings; however, there were unconfirmed reports of extrajudicial killings. Some political and religious activists claimed that government authorities used plainclothes "contract thugs" and "citizen brigades" to beat and sometimes kill "undesirables"; however, it was impossible to confirm these reports.

There were no developments in the July 2006 case of Y Ngo Adrong, an ethnic Jarai who reportedly hanged himself in his prison cell, although bruises on his torso strongly suggested that he died from a beating.

Disappearance

Two politically active Vietnamese citizens, Tim Sakhorn and Le Tri Tue, disappeared in Cambodia in May. Tim Sakhorn reappeared months later in Vietnamese custody in An Giang Province, where he was later tried and sentenced to one year in prison in November. Le Tri Tue was still missing at year's end, amid rumors that Vietnamese government security agents had killed him.

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits physical abuse; however, police sometimes physically mistreated suspects while they were under arrest or in police custody.

Incidents of local police harassment and beatings were reported in the provinces of Dien Bien, Quang Ninh, Hai Phong, Lang Son, Thanh Hoa, and Tra Vinh, often involving disruption of "illegal" meetings at Protestant house churches or restrictions on religious holiday celebrations. Officials involved in harassment and beating incidents in Thanh Hoa were fined and reprimanded. In Lang Son in November, plainclothes security agents allegedly beat democracy activist Nguyen Phuong Anh while he was visiting another activist; authorities claimed that he was drunk. More than one Protestant congregation in Dien Bien reported incidents of police beatings and harassment.

There were allegations from activist groups that police harassed or beat ethnic minority returnees in the Central Highlands, although most reports could not be substantiated. Monitors found that most incidents involved land, money, or domestic disputes.

In April police prevented the wives of five political prisoners from meeting with a diplomat and a parliamentarian of a foreign country. Two of the women were intercepted and manhandled by plainclothes security agents. In a later incident, security officials intercepted a woman invited to meet with the same diplomat and temporarily detained her. At various times other political activists and family members of prisoners were physically prevented from meeting with foreign diplomatic officials. Tactics used by authorities included setting up barriers or guards outside their residences or calling them into the local police station for questioning.

On July 11, a political dissident and prominent labor activist was released from the mental hospital where she was involuntarily committed in November 2006. While there were no restrictions on her activities, she reportedly was ordered to undergo monthly "checkups," and she remained concerned about surveillance and potential rearrest.

No action was taken against local authorities who beat two ethnic Dao Protestants in the Central Highlands province of Kon Tum, and no compensation was provided to the victims.

Prison and Detention Center Conditions

Prison conditions could be severe but generally did not threaten the lives of prisoners. Diplomatic observers reported Spartan but generally acceptable conditions. Overcrowding, insufficient diet, lack of clean drinking water, and poor sanitation nonetheless remained serious problems in many prisons. Prisoners had access to basic health care, with additional medical services available in hospitals at the district and provincial levels. In many cases, however, family members were prevented from transmitting medication to prisoners. Prisoners generally were required to work but received no wages. Prisoners were sometimes moved to solitary confinement, where they were deprived of reading and writing materials for periods of up to several months. Family members made credible claims that prisoners received better benefits by paying bribes to prison officials.

There were unsubstantiated reports of poor prison conditions at Xuan Loc Prison in Dong Nai Province. Allegations included cases of several deaths of prisoners, which could not be confirmed by the international community. Family members of human rights lawyer and Protestant activist Nguyen Van Dai and Catholic activist Father Nguyen Van Ly claimed that the two were denied access to a Bible, allegedly because prison officials feared they would convert other inmates to Christianity. In October Nguyen Van Dai was allowed to have a Bible. Another imprisoned activist and Christian, Le Thi Cong Nhan, reportedly had her Bible taken from her by prison authorities in Thanh Hoa Province.

The government generally did not permit the International Committee of the Red Cross or nongovernmental organizations (NGOs) to visit prisons. The government approved a request from the Office of the UN High Commissioner for Refugees (UNHCR) to visit a prisoner, but by year's end no UNHCR representative had gone to the prison. In March a foreign diplomat was allowed to visit a prison in the north. In October foreign observers were allowed to visit political and religious activists at a prison outside Hanoi. Other requests by diplomatic observers to visit prisoners were pending.

Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, the government continued to arrest and detain citizens for their political activities. This included the November arrests in Ho Chi Minh City of two Vietnamese citizens and three foreign citizens who were preparing to mail pamphlets calling for a democratic change of government through nonviolent resistance. The government accused the group of committing "terrorist acts." By year's end two of the foreign nationals had been released. Another foreigner, connected to the group and arrested at the same time at the border with Cambodia, remained in custody at year's end. The government accused the foreign citizen of entering the country with false documentation but did not announce formal charges.

The criminal code allows the government to detain persons without charges indefinitely under vague "national security" provisions. During the year several individuals were arrested for violating Article 88 of the criminal code, which prohibits the "distribution of propaganda against the state." Those charged with violating Article 88 were typically sentenced to terms of up to five years in prison.

Role of the Police and Security Apparatus

Internal security is primarily the responsibility of the Ministry of Public Security (MPS); however, in some remote areas the military is the main government agency and provides public safety functions, including maintaining public order in the event of civil unrest. The MPS controls the police, a special national security investigative agency, and other internal security units. It also maintains a system of household registration and block wardens to monitor the population, including those suspected of engaging, or likely to engage, in unauthorized political activities; however, the system became less pervasive in its intrusion into most citizens' daily lives. Nevertheless, credible reports suggested there were incidents of local police forces using "contract thugs" and "citizen brigades" to harass and beat political activists and others perceived as "undesirable" or a "threat" to public security.

Police organizations exist at the provincial, district, and local levels and are subject to the authority of the people's committees at each level. The police were generally effective at maintaining political stability and public order, but police capacities, especially investigative, were generally very low. Police training and resources were inadequate. Corruption was a significant problem among the police force at all levels, and police officers sometimes acted with impunity. Internal police oversight structures existed but were subject to political influence.

Arrest and Detention

The criminal code outlines the process by which individuals are taken into custody and treated until they are brought before a court or other tribunal for judgment. The Supreme People's Procuracy (the Public Prosecutor's Office) issues arrest warrants, generally at the request of police; however, police may make an arrest without a warrant on the basis of a complaint filed by any person. The procuracy issues retroactive warrants in such cases. The procuracy must issue a decision to initiate a formal criminal investigation of a detainee within nine days; otherwise, police must release the suspect. In practice the nine-day regulation was often circumvented.

The investigative period may last from three months for less serious offenses (those punishable by up to three years' imprisonment) to 16 months for exceptionally serious offenses (those punishable by more than 15 years' imprisonment or capital punishment), or 20 months for national security cases. During the investigative period, detainees typically were not allowed access to a lawyer or family members, especially in national security cases. During this period some detainees were strongly compelled to admit guilt in support of the government's case against them. Investigators sometimes used physical isolation, excessively lengthy interrogation sessions, and sleep deprivation to compel detainees to admit guilt.

The criminal code further permits the procuracy to request additional two-month periods of detention after an investigation to consider whether to prosecute a detainee or ask the police to investigate further. There was no functioning bail system or equivalent system of conditional release. Time spent in pretrial detention counts toward time served upon conviction and sentencing.

Although legal counsel is a constitutional right for all persons accused of crimes, a scarcity of trained lawyers and lack of defendant rights made prompt detainee access to an attorney rare. In general only persons formally charged with capital crimes were assigned lawyers.

By law detainees are permitted access to lawyers from the time of their detention, but the system often functioned in a way that denied detainees free and open access to legal counsel. Bureaucratic delays frequently limited initial detainee contacts with their attorneys. In national security cases, authorities can delay defense lawyers' access to clients until after an investigation has ended and the suspect has been formally charged with a crime. Lawyers must be informed of and allowed to attend interrogations of their clients. They must also be given access to case files and be permitted to make copies of documents. Attorneys were sometimes able to exercise these privileges. However, in the case of an interrogation, a defendant first must request the presence of a lawyer, and it was not clear whether authorities always advised defendants of this privilege.

Police generally informed families of detainees' whereabouts; however, family members were allowed to visit a detainee only with the permission of the investigator, and this permission was not automatically granted. Prior to a formal indictment, detainees also have the right to notify family members. However, a number of detainees suspected of national security violations were held incommunicado. At year's end some persons arrested early in the year had not been seen by family members or a lawyer, nor had they been formally charged with crimes.

Courts may sentence persons to administrative detention of up to five years after completion of a sentence. In addition, police or mass organizations can propose that one of five "administrative measures" be imposed by people's committee chairpersons at district and provincial levels without a trial. The measures include terms ranging from six to 24 months in either juvenile reformatories or adult detention centers and generally were applied to repeat offenders with a record of minor offenses, such as committing petty theft or "humiliating other persons." Chairpersons may also impose terms of "administrative probation," which generally was some form of restriction on movement and travel. In March the government repealed Decree 31, a provision on administrative probation often used to punish perceived political dissidents. However, authorities continued to sanction some individuals subject to Decree 31 after its repeal. The government also used other decrees, ordinances, and measures, such as Article 88, to detain activists for the peaceful expression of opposing political views.

Arbitrary detentions, particularly for political activists, remained a problem. A government crackdown on political dissent that started in late 2006 and continued through April resulted in the arrest and detention of approximately 30 activists. Although some were released, others either remained under investigation and in detention without being formally charged or were tried and sentenced to lengthy prison terms.

On May 8, police forcibly entered the home of prominent Ho Chi Minh City democracy activist Tran Khue and removed personal computers and other material. Khue underwent interrogation and was eventually released. On November 26, Khue was prevented from traveling to Hanoi to visit terminally ill democracy activist Hoang Minh Chinh.

There were reports that government officials in the Central and Northwest Highlands temporarily detained ethnic minority individuals for communicating with the ethnic minority community abroad during the year.

Peaceful land rights protests in Ho Chi Minh City and Hanoi resulted in the temporary detention and security surveillance of several activists, although the government handled the dispersal of these protests without significant violence. Peaceful protests in December over Chinese actions in the disputed Spratly and Paracel Islands also resulted in the temporary detention of several activists for demonstrating without permission. One activist in Ho Chi Minh City claimed he was held for questioning for 30 hours before being released.

In July Thich Khong Thanh, a Unified Buddhist Church of Vietnam (UBCV) monk, was temporarily detained in Hanoi for his reported involvement in land rights protests, then transferred back to Ho Chi Minh City and released. Others with him were temporarily detained in Hanoi. In November UBCV monk Thich Thien Minh was temporarily detained and questioned in Ho Chi Minh City, also due to his involvement in land rights protests. He remained under police surveillance.

Senior UBCV leaders remained under "pagoda arrest," although the government denied that such orders existed, but they were allowed some movement within the country. Other religious and political activists were subject to varying degrees of informal detention in their residences.

Amnesty

The government did not grant a Tet amnesty, and it delayed the September National Day amnesty until October, due to the May elections and a change in government portfolios. Nevertheless, provincial councils throughout the country conducted a National Day amnesty of prisoners under their jurisdiction. In late October, as part of a delayed National Day Amnesty, the government amnestied several thousand persons, including 11 under national security charges. The 11 national security releases included three of eight Cao Dai activists, originally arrested in 2004 for distributing petitions at an ASEAN meeting in Phnom Penh, and Montagnard prisoners, arrested in the 2004 Central Highlands protests.

Several high-profile prisoners benefited from special release during the year, including political activists Nguyen Vu Binh, Phan Van Ban, and Le Quoc Quan. Binh, a journalist and writer released in June, was detained in 2002 and sentenced to seven years in prison in 2003 after writing articles calling for greater political freedoms. Ban, imprisoned in 1985 after joining an organization that called for political change, was released and deported on May 9. Le Quoc Quan, an attorney and democracy activist, was released on June 16 but remained under strict surveillance.

Denial of Fair Public Trial

The law provides for the independence of judges and lay assessors; however, in practice the CPV controlled the courts at all levels by retaining effective executive power to appoint judges and often to determine verdicts. Most, if not all, judges were members of the CPV and were chosen at least in part for their political reliability. As in past years, the judicial system was strongly distorted by political influence, endemic corruption, and inefficiency. CPV influence was particularly notable in high-profile cases and others in which a person was charged with challenging or harming the CPV or the state.

The judiciary consists of the Supreme People's Court (SPC); provincial and district people's courts; military tribunals; administrative, economic, and labor courts; and other tribunals established by law. Each district has a people's court, which serves as the court of first instance for most domestic, civil, and criminal cases. Each province also has a people's court, which serves as the appellate forum for district court cases as well as court of first instance for other cases. The SPC, which reports to the National Assembly, is the highest court of appeal and review. Administrative courts adjudicate complaints by citizens about official abuse and corruption. There are also special committees to help resolve local disputes.

There was a shortage of trained lawyers and judges, and there was no independent bar association. Low judicial salaries hindered efforts to develop a trained judiciary. The few judges who had formal legal training often had studied abroad only in countries with communist legal traditions.

Government training programs to address the problem of inadequately trained judges and other court officials were underway. Foreign governments and the UN Development Program provided assistance; however, the lack of openness in the criminal judicial process and the continuing lack of independence of the judiciary hampered progress.

Courts of first instance at district and provincial levels include judges and lay assessors, but provincial appeals courts and the SPC are composed of judges only. People's councils appoint lay assessors from a pool of candidates suggested by the VFF. Lay assessors are required to have "high moral standards," but legal training is not required.

Military tribunals, although funded by the Ministry of Defense, operate under the same rules as other courts. The Defense Ministry is represented on the judicial selection panels, and the head of the military tribunal system is the deputy head of the SPC. Military tribunal judges and assessors are military personnel, chosen jointly by the SPC and the ministry but supervised by the SPC. The law gives military courts jurisdiction over all criminal cases involving military entities, including military-owned enterprises. The military has the option of using the administrative, economic, or labor courts for civil cases.

Trial Procedures

The constitution provides that citizens are innocent until proven guilty; however, many lawyers complained that judges generally presumed guilt. Trials generally were open to the public, but in sensitive cases judges closed trials or strictly limited attendance. Juries are not used; judges or panels of judges hear prosecution and defense arguments and make final adjudications. Defendants have the right to be present and have a lawyer at trial, although not necessarily the lawyer of their choice, and this right was generally upheld in practice. Defendants unable to afford a lawyer were generally provided one only in cases with possible sentences of life imprisonment or capital punishment. The defendant or the defense lawyer has the right to cross-examine witnesses; however, there were cases in which neither defendants nor their lawyers were allowed to have access to government-held evidence in advance of the trial, to cross-examine witnesses, or to challenge statements. Defense lawyers commonly had little time before trials to examine evidence against their clients. Convicted persons have the right to appeal. District and provincial courts did not publish their proceedings. The SPC has published the proceedings of all the cases it reviewed since 2003.

There continued to be credible reports that defense lawyers were pressured not to take as clients any religious or democracy activists facing trial.

The public prosecutor brings charges against an accused person and serves as prosecutor during trials. According to the criminal procedures code, the change in courtroom procedures was to continue from an "investigative" system, in which the judge leads the questioning, to an "adversarial" system, in which prosecutors and defense lawyers advocate for their respective sides. The change was intended to provide more protections for defendants and prevent judges from coercing defendants into confessing guilt; however, implementation differed from one province to another.

On March 30, government officials allowed foreign diplomats to observe by closed-circuit television the trial of Catholic priest Nguyen Van Ly in Hue. The government later allowed foreign diplomats to view via closed-circuit television the May 11 trial of Nguyen Van Dai and Le Thi Cong Nhan in Hanoi as well as their SPC appeal trial on November 27.

Political Prisoners and Detainees

There were no reliable estimates of the number of political prisoners. The government claimed it held no political prisoners, only lawbreakers. The government held at least 30 political detainees at year's end, although some international observers claimed the numbers ranged into the hundreds.

In January police briefly detained human rights lawyer and labor activist Le Thi Cong Nhan for questioning. Nhan was later arrested, tried, and on May 11 sentenced to four years in prison and three years' probation for violating Article 88. In November the SPC reduced the prison portion of her sentence to three years on appeal.

In February authorities temporarily detained and questioned a number of politically active church leaders, including Roman Catholic priests Chan Tin and Phan Van Loi. Other democracy activists who were detained and eventually released included Nguyen Phong, Nguyen Binh Thanh, Hoang Thi Anh Dao, Bach Ngoc Duong, Nguyen Phuong Anh, and Pham Van Coi. Some subsequently fled to Cambodia and sought protection from the UNHCR, while Nguyen Phong and Nguyen Binh Thanh were later rearrested, tried, and on March 30 sentenced to prison terms of six and five years, respectively.

On February 18, Catholic priest Nguyen Van Ly, amnestied in 2005, was rearrested. On March 30, Ly was sentenced to eight years in prison under Article 88 for "conducting propaganda against the state."

On March 6, human rights attorney Nguyen Van Dai was arrested under Article 88; on May 11, he was sentenced to five years in prison and four years' probation. In November the SPC on appeal reduced the prison portion of his sentence to four years.

On March 8, attorney and democracy activist Le Quoc Quan was arrested in March shortly after returning from a fellowship program in the United States. He was charged with violations of Article 79 of the penal code, which covers "crimes of infringing upon national security," including "carrying out activities aimed at overthrowing the people's administration." On June 16, while still under investigation, Quan was released as part of a special amnesty but was disbarred. At year's end he remained under strict surveillance.

In April writer and journalist Tran Khai Thanh Thuy was detained for violation of Article 88. At year's end she remained in detention without trial (see section 2.a.).

In May Tran Quoc Hien received a three-year prison term for "conducting propaganda against the state" and a two-year sentence for "disrupting security."

On May 10, Le Nguyen Sang, Huynh Nguyen Dao, and Nguyen Bac Truyen, arrested in August 2006 and charged with "storage of antigovernment materials," were sentenced to five years' imprisonment for violating Article 88. On August 17, at the appeals trial for Le Nguyen Sang, the court reduced Sang's sentence from five to four years in prison, Truyen's from four years to three years and six months, and Dao's from three years to two years and six months; their two-year probation terms remained unchanged. The court continued to find Sang, Truyen, and Dao guilty of "propagandizing against the state."

On May 16, prodemocracy activist Nguyen Ba Dang was arrested for "spreading propaganda against the state"; at year's end authorities had not released any information regarding his case. Dang was being detained in Kinh Chi Camp in Hai Duong City.

At year's end Truong Quoc Huy remained in detention without formal charges after his arrest in August 2006 on charges related to political activism, including "attempting to undermine national unity." A trial scheduled for April 13 was postponed for unspecified reasons, and a trial rescheduled for December 18 was indefinitely postponed.

Pham Ba Hai, Vu Hoang Hai, Nguyen Ngoc Quan, and an unknown number of others, arrested in September 2006 for activities involving the "propagandizing against the people's government," remained in detention without official notification of charges. A trial set for December 27 was indefinitely postponed.

Several political dissidents affiliated with outlawed political organizations, including Bloc 8406, the People's Democratic Party, People's Action Party, Free Vietnam Organization, Democratic Party of Vietnam, United Workers-Farmers Organization, and others, remained in prison in various locations.

At year's end five of eight Cao Dai Church members, sentenced in 2005 to between three and 13 years in prison, remained incarcerated. Three were amnestied in October. Ethnic minority prisoners from the Central Highlands, associated with the 2004 Central Highlands protests, also remained in prison. Some NGOs claimed there were several hundred such prisoners. Some were released from detention in the October amnesty.

Civil Judicial Procedures and Remedies

There is no clear or effective mechanism for pursuing a civil action to redress or remedy abuses by authorities. Civil suits are heard by "administrative" courts, civil courts, and criminal courts, all of which follow the same procedures as in criminal cases and are adjudicated by members of the same body of judges and lay assessors. All three levels were subject to the same problems of corruption, lack of independence, and inexperience.

Officials reported that according to law, a citizen seeking to press a complaint regarding a human rights violation by a civil servant is required first to petition the officer accused of committing the violation for permission to refer the complaint to the administrative courts. If a petition is refused, the citizen may refer it to the officer's superior. If the officer or his superior agrees to allow the complaint to be heard, the matter is taken up by the administrative courts. If the administrative courts agree that the case should be pursued, it is referred either to the civil courts for suits involving physical injury seeking redress of less than 20 percent of health care costs resulting from the alleged abuse, or to the criminal courts for redress of more than 20 percent of such costs. In practice this elaborate system of referral and permission ensured that citizens had little effective recourse to civil or criminal judicial procedures to remedy human rights abuses, and few legal experts had experience with the system.

Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions; however, the government did not respect these prohibitions in practice. Household registration and block warden systems existed for the surveillance of all citizens. Authorities focused on persons suspected of being involved in unauthorized political or religious activities.

Forced entry into homes is not permitted without orders from the public prosecutor; however, security forces seldom followed these procedures but instead asked permission to enter homes, with an implied threat of repercussions for failure to cooperate. Some individuals refused to cooperate with such "requests." In urban areas police generally left when faced with noncompliance.

Government authorities opened and censored targeted persons' mail, confiscated packages and letters, and monitored telephone conversations, e-mail, and facsimile transmissions. The government cut the telephone lines and interrupted the cellular telephone and Internet service of a number of political activists and their family members.

The government did not have an official policy of forced resettlement. Nevertheless, the government resettled some citizens to make way for infrastructure projects, many in ethnic minority communities, and there were widespread reports that compensation was either not fair or not paid in a timely manner.

In June in Ho Chi Minh City, disgruntled groups from the Mekong Delta and the Ho Chi Minh City region conducted peaceful protests over disputes related to land expropriation and land compensation by the state. On July 18, some protesters were forcibly placed into police trucks when they refused to end the three-week rally, and many suffered minor injuries. Eyewitnesses dismissed as inaccurate reports that police violence was used to break up the Ho Chi Minh City protests. Police detained protest organizers but eventually released them, reportedly unharmed. Several activists later complained of police surveillance and harassment. Other reported organizers were publicly denounced in the media and had their home addresses published, a common practice by security officials. A smaller July land rights protest in Hanoi was peacefully dispersed by security officials, and those detained were released shortly afterwards.

Following the protests in June and July, the government publicized measures to address land rights protesters' concerns, including the establishment of 14 interagency inspection teams to look into unresolved land claims disputes. However, at year's end there were no reports that any such claims had been resolved.

Some members of ethnic minorities in the Central and Northwest Highlands continued to complain that they had not received proper compensation for past seizures of their land, which was given to government-owned coffee and rubber plantations.

Some resettled individuals reportedly returned to their ancestral villages in Son La and Dien Bien provinces after being forced to move during the year. In the case of a dam project in Son La, the government attempted to improve compensation and resettlement activities, although not every family was satisfied.

Membership in the CPV remained a prerequisite to career advancement for all government and government-linked organizations and businesses. However, economic diversification made membership in the CPV and CPV-controlled mass organizations less essential to financial and social advancement.

The government continued to implement a family planning policy that urged families to have no more than two children, but the policy emphasized exhortation and education rather than coercion. The government can deny promotions and salary increases to public sector employees with more than two children, and some cases of denied promotion or financial penalties were reported, although the policy did not appear to be enforced in a consistent manner.

Section 2 Respect for Civil Liberties, Including:

Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, the government continued to restrict these freedoms, particularly with respect to speech that criticized individual government leaders, promoted pluralism or multiparty democracy, or questioned policies on sensitive matters such as human rights, religious freedom, or the border agreement with China. The line between what constituted private speech and public speech continued to be arbitrary.

Both the constitution and the criminal code include broad national security and antidefamation provisions that the government used to restrict freedom of speech and of the press. The criminal code defines the crimes of "sabotaging the infrastructure of socialism," "sowing divisions between religious and nonreligious people," and "conducting propaganda against the Socialist Republic of Vietnam" as serious offenses against national security. The criminal code also expressly forbids "taking advantage of democratic freedoms and rights to violate the interests of the state and social organizations."

The CPV, government, and party-controlled mass organizations controlled all print, broadcast, and electronic media, although some media organizations increasingly pushed the limits of censorship. The government exercised oversight through the Ministry of Culture and Information, reorganized during the year to become the Ministry of Information and Communication, and supplemented its control through pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship by the domestic media.

On January 9, politburo member Truong Tan Sang gave a speech calling on the CPV to strengthen "management of the press" by "amending legal documents on press activities and improving media workers' political stances, skills, and ethics." After detailing the positive role the media played in socioeconomic development, Sang stated that the CPV "must enhance its leadership role" in appointing and recruiting media workers. In addition, the party's Central Committee resolved at its sporadic but typically semiannual plenary meetings for state media to rededicate itself to carrying out party lines and policies.

In August the country's first national press award honors went to the official army newspaper for exposing the threat of "reactionary" and "hostile influences" working to undermine the country.

Editors from some periodicals were reportedly threatened with sanctions for their publication of criticisms of the government, including revelations of alleged official corruption. Late in the year, two deputy chief editors at the Ho Chi Minh City-based *Tuoi Tre* daily newspaper were removed for their publication of articles in 2006 alleging that the state bank governor awarded his son a contract to print new polymer banknotes.

Late in the year, Chinese statements asserting authority over disputed islands in the South China Sea created enormous public and media resentment. To control the popular reaction, the government reportedly ordered media silence on the issue. VietnamNet, a major online news outlet, published an editorial in December, and the Ministry of Information and Communication fined the news organization \$2,000 (32 million VND). The editor-in-chief was notified that he would be removed from his position. At year's end he remained in his post, but a coeditor was named by the ministry to oversee the outlet's news production.

The law requires journalists to pay monetary damages to individuals or organizations harmed as a result of their reporting, even if the reports are true. Independent observers noted that the law severely limited investigative reporting. Several media outlets continued to test the limits of government press restrictions by publishing articles that criticized actions by CPV and other government officials. There were press reports on topics that generally were considered sensitive, such as the prosecution on corruption charges of high-ranking CPV and government officials, as well as occasional criticism of officials and official associations. Nonetheless, the freedom to criticize the CPV and its senior leadership remained restricted.

In June Prime Minister Nguyen Tan Dung signed a decree prohibiting all government and CPV employees except ministers, provincial governors, or appointed spokespersons from speaking to the media. The decree codifies several procedures that journalists must follow before being granted an interview, but it does not specify punishments for officials who provide information without permission. International and domestic journalists suggested that the decree represents the formalization of what was a previously implied policy.

Some persons who expressed alternative opinions on religious or political issues were not allowed to travel abroad or were denied a passport.

Foreign journalists must be approved by the Foreign Ministry's press center and must be based in Hanoi, with the exception of one correspondent reporting solely on economic issues who lived and maintained an office in Ho Chi Minh City while officially accredited to Hanoi. Foreign journalists are required to renew their visas every three to six months, although the process is routine and there were no reports of any visa renewals being refused. The number of foreign media employees allowed was limited, and local employees who worked for foreign media also were required to be registered with the Foreign Ministry.

It became somewhat easier for foreign media outlets to hire local reporters and photographers and receive approval for their accreditation, although the process continued to be cumbersome. The Foreign Ministry's press center nominally monitored journalists' activities and approved requests for interviews, photographs, filming, or travel, submitted at least five days in advance, on a case-by-case basis. By law foreign journalists are required to address all questions to government agencies through the Foreign Ministry, although in practice this procedure was often ignored. Foreign journalists noted that they generally did not notify the government about their travel outside of Hanoi unless it involved a story that the government would consider sensitive or they were traveling to an area considered sensitive, such as the Central Highlands.

The government restricted the publication and distribution of religious texts.

Foreign-language editions of some banned books were sold openly by street peddlers and in shops oriented to tourists. Foreign-language periodicals were widely available in cities, although there was occasional censorship of articles by the government. The government's censorship office threatened to ban the publication of *A Perfect Spy*, a novel about the Viet Cong double agent Pham Xuan An; however, in August a government-owned, party-controlled firm published the book.

The law limits access to satellite television to top officials, foreigners, luxury hotels, and the press. In practice, however, persons throughout the country were able to access foreign programming via home satellite equipment or cable. Cable television, including foreign-origin channels, was widely available to subscribers living in urban areas. Unlike in 2006, the government did not block subscribers from receiving certain channels.

Internet Freedom

The government allows access to the Internet through a limited number of Internet Service Providers (ISPs), all of which were state-owned joint stock companies. Internet usage grew rapidly during the year, with an estimated 18 million Internet users out of a population of 84 million by year's end. Blogging increased rapidly, primarily as a youth phenomenon, but older adults and professionals also set up their own blogs. In addition, a number of prominent print and online news journalists set up their own blogs. In several cases their blogs were considered far more controversial than their mainstream writing. In a few cases, the government fined or punished these individuals for the content of their blogs.

The government forbids direct access to the Internet through foreign ISPs, requires domestic ISPs to store information transmitted on the Internet for at least 15 days, and also requires ISPs to provide technical assistance and workspace to public security agents to allow them to monitor Internet activities.

The government requires Internet agents, such as cybercafes, to register the personal information of their customers and store records of Internet sites visited by customers. However, in practice many cybercafe owners did not maintain these records. Similarly, it was not clear whether major ISPs complied with the many government regulations.

The government monitored e-mail, searched for sensitive key words, regulated Internet content, and blocked many Web sites with political or religious content that authorities deemed "offensive." They claimed that censorship of the Internet was necessary to protect citizens from pornography and other "antisocial" or "bad elements." They also claimed to try to limit Internet access by school-age users to keep them from gaming at the expense of their school work.

Article 88 is construed to prohibit individuals from downloading from the Internet and disseminating documentation that the government deems offensive.

Authorities continued to detain and imprison dissidents who used the Internet to publish ideas on human rights and political pluralism. For example, on April 21, writer and Internet journalist Tran Khai Thanh Thuy was arrested at her home in Hanoi for Article 88 violations. Thuy reportedly expressed her political views on a number of domestic Web sites. At year's end she was being held at a prison in Hanoi, with no access to family or a lawyer. Hanoi-based human rights lawyers Nguyen Van Dai and Le Thi Cong Nhan were also arrested, jailed, and charged under Article 88. At their May trial, the government's case largely revolved around downloading, authoring, and distributing prodemocracy documents on the Internet.

Other individuals were also arrested for "misuse" of the Internet, including participating in certain online forums and chat services and writing about democracy and human rights.

The government continued to use firewalls to block some Web sites that it deemed politically or culturally inappropriate, including Web sites operated by overseas Vietnamese political groups. The government appeared to have lifted most of its restrictions on access to the Voice of America Web site. Although Radio Free Asia (RFA) appeared to be available only intermittently, primarily in the north, local press occasionally wrote stories based on RFA broadcasts. Access to sites operated by overseas dissident groups continued to be restricted.

The Ministry of Information and Communication requires owners of domestic Web sites, including those operated by foreign entities, to register their sites with the government and submit their planned Web site content and scope to the government for approval; however, enforcement remained selective.

In a widely publicized case, *Intellasia*, an online news and investment publication, came under public attack from government-sponsored newspapers alleging the *Intellasia* Web site was "illegal for posting reactionary content." Media articles reported that police had detected an "unlicensed" Web operation managed by an Australian citizen and that the Web site had "posted many distorted and reactionary articles about the country's politics, human rights, and democracy." Government investigators allegedly confirmed that *Intellasia's* Web site management company, Tri Tue A Chau Ltd., violated Decree 56 concerning press operations. *Intellasia* also was under suspicion for publishing "critical political news" and operating a Web server abroad. In August authorities shut down access to the Web site inside the country. In September the Australian owner of the site fled the country, claiming that security officials had threatened his wife and employees with imprisonment and had used denial of service and cyberattack techniques to shut down the site. At year's end *Intellasia* was operating from outside the country.

Academic Freedom and Cultural Events

The government asserts the right to restrict academic freedom, and foreign field researchers were sometimes questioned and monitored. However, the government continued to permit a more open flow of information, including in the university system, than in previous years. Local librarians increasingly were being trained in professional skills and international standards that supported wider international library and information exchanges and research. Foreign academic professionals temporarily working at universities in the country were allowed to discuss nonpolitical issues widely and freely in classes, but government observers regularly attended classes taught by both foreigners and citizens. Security officials occasionally questioned persons who attended programs on diplomatic premises or used diplomatic research facilities. Nevertheless, requests for materials from foreign research facilities increased. Academic publications usually reflected the views of the CPV and the government.

In March four writers, members of a former dissident intellectual circle from the 1950s and once banned for writing poems critical of government policy, received prestigious national awards for artistic achievement. Two of the awards were posthumous. This was widely seen as a cautious indication of a greater tolerance for free academic discourse.

The government generally exercised controlled over art exhibits, music, and other cultural activities; however, it generally allowed artists broader latitude than in past years to choose the themes for their works.

Freedom of Peaceful Assembly and Association

Freedom of Assembly

The right of assembly is restricted by law, and the government restricted and monitored all forms of public protest or gathering. Persons wishing to gather in a group are required by law and regulation to apply for a permit, which local authorities can issue or deny arbitrarily. In practice only those arranging publicized gatherings to discuss sensitive issues appeared to require permits, and persons routinely gathered in informal groups without government interference. In general the government did not permit demonstrations that could be seen as having a political purpose, and the government restricted the right of several unregistered religious groups to gather in worship.

On April 5, security services obstructed a meeting at a foreign ambassador's residence between a foreign congressional delegation and five family members of political activists. In November police broke up a Protestant house church gathering in Haiphong. Several such "unregistered" religious gatherings also were broken up or obstructed in the Northwest Highlands, amid accusations by religious practitioners that local authorities sometimes used "contract thugs" to harass or beat them.

As in previous years, peaceful protests by citizens demanding redress for land rights claims frequently took place in Ho Chi Minh City. Police monitored these protests but generally did not disrupt them. In June and July, several hundred protesters camped in front of a government building in Ho Chi Minh City for more than 30 days. When several prominent members of the unrecognized Unified Buddhist Church of Vietnam became involved, police broke up the protests (see section 1.f.). In addition, anti-China protests resulting from long-standing sovereignty disputes over the Spratly and Paracel Islands took place in Hanoi and Ho Chi Minh City late in the year. Police monitored and dispersed protesters without significant violence.

Freedom of Association

The government severely restricted freedom of association. Opposition political parties were neither permitted nor tolerated. The government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF. However, some entities, including unregistered religious groups, were able to operate outside of this framework with little or no government interference.

In June the National Assembly passed the Ordinance on Grassroots Democracy, which is intended to allow villagers, with the participation of local VFF representatives, to convene meetings for the purpose of discussing and proposing solutions to local problems and nominating candidates for local leadership. The ordinance also attempts to encourage transparency in local governance by requiring commune governments to publicize how they raise and spend funds for local economic development. At year's end implementation had not begun.

Bloc 8406, a political activist group that calls for the creation of a multiparty state, continued to exist even though senior members were arrested and jailed in a crackdown early in the year and others faced severe harassment for their peaceful political activities. Bloc 8406 claimed more than 2,000 supporters inside the country, although this number could not be verified. At least 10 members of the group were in detention at year's end.

Authorities continued to arrest members of another activist group, the People's Democratic Party of Vietnam, and a related group, the United Workers-Farmers Organization. Several individuals were tried and sentenced to prison terms, while others were in detention at year's end.

Freedom of Religion

The constitution and government decrees provide for freedom of worship, and overall respect for religious freedom improved during the year, but the government persisted in placing restrictions on the organized, political activities of religious groups. However, the government continued to relax restrictions on religious activities, and such activities continued to grow significantly.

Problems remained in the implementation of the 2004-5 Legal Framework on Religion. These included excessive delays, and in some cases inaction, in the registration of Protestant congregations in the north and the Northwest Highlands; inconsistent application of procedures for congregation registration and other legal requirements; continued restrictions on religious recruitment; difficulties in the establishment of Catholic seminaries and Protestant pastor training courses; and unresolved land expropriation claims involving a number of religious denominations. Some provincial authorities were more active, while others appeared not to consider positive and consistent implementation of the Legal Framework on Religion a priority.

The government remained concerned that some ethnic minority groups active in the Central Highlands were operating a self-styled "Dega Church," which reportedly combines religious practice with political activism and calls for ethnic minority separatism. The government also restricted the leadership of the unrecognized UBCV and maintained that it would not recognize the organization under the existing leadership.

The government maintained a prominent role overseeing recognized religions. Religious groups encountered the greatest restrictions when they engaged in activities that the government perceived as political activism or a challenge to its rule. The government continued to ban, and actively discouraged participation in, one unrecognized faction of the Hoa Hao Buddhist Church. Government authorities imprisoned and defrocked a number of ethnic Khmer Buddhists for their involvement in antigovernment protests in the Mekong Delta early in the year. Some religious figures, including Catholic priest Nguyen Van Ly, Khmer Krom monk Tim Sakhorn, and Protestant activist Nguyen Van Dai, were sentenced to prison terms for their political activism.

By law religious groups must be officially recognized or registered, and the activities and leadership of individual religious congregations must be approved by the appropriate lower-level authorities. The law mandates that the government act in a time-bound and transparent fashion, but the approval process for registration and recognition of religious organizations was sometimes slow and nontransparent. Nevertheless, new congregations were registered throughout the country, and a number of religious denominations were registered at the national level. In March the Baha'i Faith received official recognition, and in October the government recognized the Vietnamese Baptist and Mennonite religious groups. The Protestant Vietnam Inter-Christian Fellowship and the Vietnam Presbyterian Church also received national-level recognition. However, in the northern region and the Northwest Highlands, local authorities had not acted on registration applications submitted in 2006 by more than 1,000 Protestant congregations among ethnic minority groups, the Hmong in particular.

Some local authorities continued to demand that even recognized religious organizations provide lists of all members of subcongregations as a precondition to registration, although this specific requirement was not codified in the Legal Framework on Religion. Some registered congregations in the northern region and the Northwest Highlands complained that officials used such lists to keep unlisted members from participating in services or for harassment by local authorities or their agents. Annual activities by congregations also must be registered with authorities, and activities not on the accepted annual calendar require separate government approval.

As in past years, official oversight of recognized religions and their registered subcongregations, as well as problems faced by followers of nonrecognized religions or unregistered subcongregations of recognized religions, varied widely from locality to locality, often as a result of ignorance of national policy or varying local interpretations of the policy's intent. In general central-level efforts to coordinate proper implementation of the government's religious framework reduced the frequency and intensity of religious freedom violations. Nevertheless, activities of nonrecognized and unregistered religious groups remained technically illegal, and these groups occasionally experienced harassment. The level of harassment declined in comparison with previous years, and the vast majority of unregistered churches and temples were allowed to operate without interference.

The government actively discouraged contacts between the illegal UBCV and its foreign supporters, although such contacts continued. Police routinely questioned some persons who held alternative religious or political views, such as UBCV monks and certain Catholic priests. Police continued to restrict the free movement of UBCV monks.

There were few credible allegations of forced renunciations during the year. However, there were isolated but credible reports of local authorities in some northwest provinces "encouraging renunciations" of recently converted Christians and pressuring them to return to their traditional beliefs. Some of these persons reported that they were also denounced for "believing in an American religion" and were therefore "enemies of the state." A training manual for local officials published by the Government Committee on Religion in late 2006 appeared to encourage recently converted Christians to return to their traditional beliefs. The manual was highlighted by international human rights groups and reportedly reworded during the year to meet legal requirements.

Articles in some provincial newspapers encouraged local authorities and ethnic minority groups to favor animist and traditional beliefs and to reject Protestantism.

Buddhists practicing their religion under the Vietnam Buddhist Sangha Executive Council, the officially sanctioned Buddhist governing council, were generally free to practice their religion. While these constituted the vast majority of Buddhists, the government continued to harass members of the banned UBCV and prevented them from conducting independent religious activities outside their pagodas.

In February the government rejected the appointment of two Catholic bishops endorsed by the Vatican. However, Catholic officials reported that the government generally continued to ease restrictions on assignment of new clergy. In August the Jesuits opened their new theological training facility in Ho Chi Minh City. The Catholic Church indicated that it had begun exploring with government authorities the establishment of additional seminaries. Late in the year, the government moved towards establishment of an official joint working group with the Vatican to develop principles and a roadmap toward establishing official relations.

A number of Catholic clergy reported a continued easing of government control over activities in certain dioceses during the year. In many places local government officials allowed the Church to conduct religious education classes (outside regular school hours) and charitable activities. The Ho Chi Minh City government continued to

facilitate certain charitable activities of the Church in combating HIV/AIDS; however, other activities and permits for Catholic NGOs remained suspended.

At least 10 Hoa Hao Church followers remained in prison on accusations of playing key roles in a protest and clash with the police following a 2005 religious event. Hoa Hao monks and believers who accepted the government-approved Hoa Hao Administrative Council were allowed freedom to practice their faith. Monks and followers who belonged to dissident groups or declined to recognize the authority of the council suffered restrictions.

Reports that some ethnic minority boarding schools discriminated against children from religious, especially Protestant, families continued. In 1997 the government published regulations in a circular appearing to prohibit religious adherents from attending certain schools; however, authorities denied that the government has a policy of limiting access to education based on religious belief and cited the 2005 Education Law, which calls for universal education for children. The government was reportedly working on an update and clarification of its regulations at year's end.

Foreign missionaries may not operate openly as religious workers in the country, although many undertook humanitarian or development activities with government approval.

The government generally required religious publishing to be done through a government-owned religious publishing house; however, some religious groups were able to copy their own materials or import them, subject to government approval. The government relaxed restrictions somewhat on the printing and importation of some religious texts, including in some ethnic minority languages. Other publishing houses were allowed to publish religious-related texts. The government's religious publishing house also published the Bible and other religious materials in ethnic minority languages for the first time. However, in a few cases unauthorized religious materials were confiscated and the owners either fined or arrested.

Societal Abuses and Discrimination

Relations among the various religious communities generally continued to be amicable, and there were no known instances of societal discrimination or violence based on religion. There was some cooperation between the Catholic Church and the government-recognized Vietnam Buddhist Sangha on charitable activities such as the fight against HIV/AIDS. There was no Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government imposed some limits on freedom of movement for certain individuals.

Several political dissidents, amnestied with probation or under house arrest, were subject to official restrictions on their movements, but police allowed them to venture from their homes under surveillance or to go to regular interrogation sessions. For example, political dissidents Pham Hong Son and Nguyen Khac Toan, amnestied in 2006, and journalist Nguyen Vu Binh, amnestied during the year, continued to be subject to administrative detention in the form of official restrictions on their movements. Although occasionally confined to their homes, they were allowed some movement within Hanoi, but visits from other dissidents and their own whereabouts were closely monitored.

A government restriction regarding travel to certain areas remained in effect. It requires citizens and resident foreigners to obtain a permit to visit border areas, defense facilities, industrial zones involved in national defense, areas of "national strategic storage," and "works of extreme importance for political, economic, cultural, and social purposes."

Local officials informally discouraged some clergy from traveling domestically, even within their own provinces, especially when travel to ethnic minority areas was involved. The Catholic archbishop of Hanoi was restricted in his official travels to ethnic minority areas in the north but was allowed to travel in a private capacity.

During the year the National Assembly implemented a controversial new Law on Residence that allows the MPS to retain the system of residence registrations. Many citizens believed that this government practice effectively served as a barrier for individuals and families seeking to move within the country and become legal residents of a new province or city. By law the MPS restricts the number of residency registrations issued, for example, for Hanoi and Ho Chi Minh City.

Many persons continued to migrate without approval, especially laborers moving from rural areas to cities in search of work. Moving without permission hampered persons seeking legal residence permits, public education, and healthcare benefits. Foreign passport holders must register to stay in private homes, although there were no known cases of local authorities refusing to allow foreign visitors to stay with friends and family. Citizens are also required to register with local police when they stay overnight in any location outside of their own homes; the government appeared to have enforced these requirements more strictly in some districts of the Central and Northern Highlands.

The government sometimes refused to issue passports to certain individuals. However, provincial governments in the Central Highlands generally facilitated the passport issuance and travel of ethnic minority individuals traveling legally to the United States on family reunification visas.

Citizens' access to passports was constrained at times by factors such as bribery and corruption. Immigrant visa applicants sometimes encountered local officials who arbitrarily delayed or denied passport issuance based on personal animosities, on the officials' perception that an applicant did not meet program criteria, or to extort a bribe.

The law does not provide for forced internal or external exile.

The government generally permitted citizens who had emigrated to return to visit. However, the government refused to allow certain citizen activists living abroad to return. Dissident Bloc 8406 activist Nguyen Chinh Ket, who traveled abroad in November 2006, was not allowed to return. His family in Ho Chi Minh City was served with an arrest warrant in the event he returned. Known overseas Vietnamese political activists were denied entrance visas.

By law the government considers anyone born in the country to be a citizen, even if the person has acquired another country's citizenship, unless a formal renunciation of citizenship has been approved by the president. However, in practice the government usually treated overseas Vietnamese as citizens of their adopted country. Emigrants were not permitted to use Vietnamese passports after they acquired other citizenship. The government generally encouraged visits and investment by such persons but sometimes monitored them carefully. During the year the government liberalized travel restrictions for overseas Vietnamese, adopting a multiple-entry visa program for "qualified" persons.

The government continued to honor a tripartite memorandum of understanding signed with the government of Cambodia and the UNHCR to facilitate the return from Cambodia of all ethnic minority Vietnamese who did not qualify for third-country resettlement.

Local government authorities observed but did not hinder fact-finding and monitoring visits by UNHCR and foreign diplomatic mission representatives to the Central Highlands. The UNHCR and foreign diplomats saw some resistance from lower-level officials in permitting private interviews of returnees. Although less frequently than in previous years, local policemen sometimes were present during UNHCR returnee interviews. Provincial governments generally continued to honor their obligations to attempt to reintegrate ethnic minority returnees from Cambodia.

The UNHCR continued to report a general feeling of "more openness" during its monitoring visits and a better flow of information from national to provincial to local government levels, due in part to World Trade Organization accession early in the year. The UNHCR also reported that the overall environment for ethnic minorities in the Central Highlands improved, despite an increase in the number of persons illegally going to Cambodia during the year. It stated that there was "no general threat" of systemic discrimination against ethnic minorities in the Central Highlands.

Protection of Refugees

The country is not a signatory to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the law does not provide for the granting of asylum or refugee status. The government has not established a system for providing protection to refugees and did not grant refugee status or asylum. In practice the government did not provide protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution, although in practice asylum seekers were not always returned.

After asylum seekers entered foreign diplomatic missions in Hanoi in 2005, the government called on diplomatic missions and international organizations to surrender to local authorities any "third-country intruders," whom the government considers to be immigration law violators. However, in two separate cases the government allowed asylum seekers who entered foreign embassies during the year to leave for resettlement in a third country.

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

Stateless Persons

The country's largest stateless group consisted of approximately 9,500 Cambodian residents who sought refuge in Vietnam in the 1970s and were denied the right to return to Cambodia by the government of Cambodia, which asserted that no proof existed to confirm that these individuals ever possessed Cambodian citizenship. Almost all were ethnic Chinese or Vietnamese. The group was initially settled in refugee camps in and around Ho Chi Minh City. When humanitarian assistance in these camps ceased in 1994, an estimated 7,000 refugees left the camps in search of work and opportunities in Ho Chi Minh City and the surrounding area. A further 2,200 remained in four villages in which the camps once operated. Many had children and grandchildren born in Vietnam, but neither the original refugees nor their children enjoyed the same rights as Vietnamese citizens, including the right to own property, comparable access to education, and public medical care. Late in the year, after years of negotiations, the UNHCR and the governments of Cambodia and Vietnam developed a plan calling for a full survey and Vietnamese naturalization of these stateless individuals. The plan was scheduled to be implemented in 2008.

The government also contributed to statelessness by involuntary denationalization of its citizens, such as women who married foreigners. This group, which typically consisted of Vietnamese women who married Chinese, Korean, or Taiwanese men, had to give up their Vietnamese citizenship to apply for foreign citizenship; however, before gaining foreign citizenship, they divorced their husbands and returned to Vietnam without possessing any citizenship or supporting documentation. The UNHCR worked with the government and the international community to address this problem.

During the year the Vietnamese Women's Union worked with the government of the Republic of Korea to address problems arising from international marriage brokering and introduce premarriage counseling that included education on immigration and citizenship regulations. The Ministry of Foreign Affairs pledged to work with immigration authorities to better publicize existing methods for such women to regain their lost Vietnamese citizenship, documentation, and residency benefits. However, because the process was costly and cumbersome, such women often remained stateless. Some domestic and international NGOs provided assistance.

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

The constitution does not provide for the right of citizens to change their government peacefully, and citizens could not freely choose and change the laws and officials that govern them. All authority and political power is vested in the CPV, and the constitution recognizes the leadership of the CPV. Political opposition movements and other political parties are illegal. The CPV politburo functions as the supreme decision-making body in the country, although it technically reports to the CPV Central Committee.

The government continued to severely restrict public debate and criticism to certain aspects of individual, state, or party performance determined by the CPV itself. No public challenge to the legitimacy of the one-party state was permitted; however, there were instances of unsanctioned letters critical of the government from private citizens, including some former senior party members, that circulated publicly. In addition, the media continued to push the boundaries on criticism of government officials, especially in the area of revealing public corruption and waste. Small opposition political groupings established in 2006 were broken up, with scores of arrests and detentions, decimating the leadership of most of these prodemocracy groups and driving them underground.

Elections and Political Participation

The most recent elections to select members of the 12th National Assembly were held in May. The elections were neither free nor fair, since all candidates were chosen and vetted by the VFF. Despite the CPV's early announcement that a greater number of "independent" candidates (those not linked to a certain organization or group) would run in the elections, the ratio of independents was only slightly higher than that of the 2002 election. The CPV approved 30 "self-nominated" candidates, who did not have official government backing but were given the opportunity to run for office. There were credible reports that party officials pressured many self-nominated candidates to withdraw or found such candidates to be "ineligible" to run.

According to the government, more than 99 percent of the 56 million eligible voters cast ballots in the election, a figure that international observers considered improbably high. Voters were permitted to cast ballots by proxy, and local authorities were charged with ensuring that all eligible voters cast ballots by organizing group voting and making sure all voters within their jurisdiction were recorded as having voted. This practice was seen as having greatly detracted from the transparency and fairness of the process.

The May results were similar to those of the 2002 election. CPV leaders--Prime Minister Nguyen Tan Dung, Party Chief Nong Duc Manh, President Nguyen Minh Triet, and National Assembly Chairman Nguyen Phu Trong--retained their seats. CPV candidates took 450 of 493 seats, and nonparty candidates won 43 seats (almost 9 percent). Only one of the 30 self-nominated candidates won.

The National Assembly, although subject to the control of the CPV (all of its senior leaders and more than 90 percent of its members were party members), continued to assert itself as a legislative body. Some deputies indirectly criticized the CPV's preeminent position in society.

The law provides the opportunity for equal participation in politics by women and minority groups. There were 127 women in the 493-seat National Assembly, or 26 percent, a slightly lower percentage than in the previous National Assembly.

Ethnic minorities held 87 seats, or 18 percent, in the National Assembly, slightly exceeding the country's approximately 13 percent ethnic minority population.

Government Corruption and Transparency

The law provides for criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Corruption continued to be a major problem. The government showcased its efforts to fight corruption, including publicizing budgets at different levels of government, developing a new Asset Declaration Decree, and streamlining government inspection measures. Cases of government officials accused of corruption sometimes were publicized widely.

A Law on Anti-Corruption, which took effect in June 2006, allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. In regular Internet chats with high-level government leaders, citizens asked pointed questions about anticorruption efforts. However, the government continued to consider any public political criticism a crime, unless the criticism was controlled by the authorities. Attempts to organize those with complaints to facilitate action are considered proscribed political activities and subject the organizers to arrest. Senior government and party leaders traveled to many provinces reportedly to try to resolve citizen complaints. Corruption related to land use was widely publicized in the press, apparently in an officially orchestrated effort to bring pressure on local officials to reduce abuses.

In March Prime Minister Nguyen Tan Dung signed the country's first Asset Declaration Decree. Government officials must annually report by November 30 the houses, land, precious metals, and "valuable papers" they own, money they hold in overseas and domestic bank accounts, and their taxable income. The decree requires the government to publicize asset declaration results only if a government employee is found "unusually wealthy" and more investigation or legal proceedings are needed. In addition to senior government and party officials, the decree applies to prosecutors, judges, and those at and above the rank of deputy provincial party chief, deputy provincial party chairman, deputy faculty head at public hospitals, and deputy battalion chief.

In June the Supreme People's Court of Appeals upheld the guilty verdict of Mac Kim Ton, a former National Assembly member and director of the Thai Binh Provincial Education Department (TBED), for "abusing power in the conduct of his official duties" but reduced his sentence from eight to seven years in prison. In March the Thai Binh Provincial People's Court had sentenced Ton after prosecutors presented "sufficient evidence" of malfeasance. The National Assembly and TBED also removed Ton from his positions in those entities after revelations of his alleged corrupt activities came to light. The court found Ton guilty of hiring one of his former students to install computers at public schools in Thai Binh Province and receiving approximately \$16,900 (270 million VND) as "thank-you money." They also charged Ton's associate with embezzling approximately \$28,700 (460 million VND) from the public schools.

In August the Hanoi People's Court found nine officials from the Ministry of Construction's Project Management Unit 18 guilty of illegally gambling and conspiring to bribe officials to cover up their misdeeds. A subsequent appeals court decision in November affirmed the verdict of 13 years for the ringleader but reduced the sentence for two accomplices by one year each (to six and two years, respectively).

The law does not provide for public access to government information, and the government did not usually grant access for citizens and noncitizens, including foreign media. In accordance with the Law on Promulgation of Legal Normative Documents, the *Official Gazette* published most legal documents in its daily edition. The government maintained a Web site in both Vietnamese and English, as did the National Assembly. In addition, decisions made by the Supreme People's Court Council of Judges were accessible through the Supreme Court's Web site. Party documents such as politburo decrees were not published in the *Gazette*.

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

The government does not permit private, local human rights organizations to form or operate. The government did not tolerate attempts by organizations or individuals to comment publicly on government human rights practices, and it used a wide variety of methods to suppress domestic criticism of its human rights policies, including surveillance, limits on freedom of the press and assembly, interference with personal communications, and detention.

The government generally prohibited private citizens from contacting international human rights organizations, although several activists did so. The government usually did not permit visits by international NGO human rights monitors; however, it allowed representatives from the press, the UNHCR, foreign governments, and international development and relief NGOs to visit the Central Highlands. The government criticized almost all public statements on human rights and religious issues by international NGOs and foreign governments.

The government was willing to discuss human rights problems bilaterally with some foreign governments, and several foreign governments continued official talks with the government concerning human rights, typically through annual human rights dialogues.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on gender, ethnicity, religion, or social class; however, enforcement of these prohibitions was uneven. While many persons formerly interned in reeducation camps on the basis of association with the pre-1975 government were well integrated into society, some continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. In the past some military veterans of the pre-1975 South Vietnamese government and their families faced economic hardship as a result of past employment restrictions and discrimination. Few of these prohibitions remained, and the declining percentage of war veterans belonging to the labor force also lessened the incidence of such discrimination.

Women

By law it is a crime to use violence, threaten violence, take advantage of a person who cannot act in self-defense, or resort to trickery to have sexual intercourse with a person against that person's will. This appears to criminalize rape, spousal rape, and in some instances sexual harassment; however, there were no known instances of prosecution for spousal rape or sexual harassment. Other rape cases were prosecuted to the full extent of the law.

The law prescribes punishment ranging from warnings to a maximum of two years' imprisonment for "those who cruelly treat persons dependent on them," but the police and legal system generally remained unequipped to deal with cases of domestic violence. On November 21, the National Assembly passed the Law on Domestic Violence Prevention and Control, highlighting the issue and providing additional penalties for abusers and resources for victims. The new law specifies acts constituting domestic violence, assigns specific portfolio responsibilities to different government agencies and ministries, and specifies punishments for perpetrators of domestic violence, although these were considered to be vague. Implementing decrees were scheduled to be written and approved in 2008.

Officials increasingly acknowledged the existence of domestic violence as a significant social concern, and this was discussed more openly in the media. Domestic violence against women was considered common, although there were no firm statistics measuring the extent of the problem. Several domestic and international NGOs worked on the problem.

Hot lines operated by NGOs existed in major cities for victims of domestic violence. While rural areas often lacked the financial resources to provide crisis centers and domestic hotlines, many villages established "intervention groups" allowing women to live with another family while men in the women's families confront the abuser. Approximately two-thirds of divorces reportedly were due in part to domestic violence. The divorce rate continued to rise, but many women remained in abusive marriages rather than confront social and family stigma as well as economic uncertainty.

The government, with the help of international NGOs, supported workshops and seminars aimed at educating both women and men about domestic violence and also highlighted the issue through public awareness campaigns. In March the Vietnamese Women's Union opened up the government-supported national Center for Women and Development. The center provided services to victims of trafficking, including shelters and vocational training. The center was partly supported by foreign foundations and NGOs.

Prostitution is illegal, but enforcement was uneven. Estimates varied widely, but some NGOs estimated that there were 300,000 prostitutes in the country, including those who engaged in prostitution part-time or seasonally. As in past years, some women reportedly were coerced to work as prostitutes, often victimized by false promises of lucrative employment. Many more women felt compelled to work as prostitutes because of poverty and a lack of other employment opportunities. There were continued but declining reports that some parents coerced daughters into prostitution or made extreme financial demands that compelled them to engage in prostitution, since parents often expected the eldest daughter to assume responsibility for a significant part of a family's finances. The Vietnam Women's Union as well as international NGOs engaged actively in education and rehabilitation programs to combat these abuses, the advancement of women. The NCFAW was tasked with implementing the government's national strategy on the advancement of women by the end of 2010. Key areas of this strategy focus on placing more women in senior ministry positions

and in the National Assembly. The strategy also focuses on increasing literacy rates, access to education, and health care.

While there is no legal discrimination, women continued to face societal discrimination. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage and in the workplace, as well as labor code provisions that call for preferential treatment of women, women did not always receive equal treatment.

The act of sexual harassment is not clearly defined, and the prevention of it is not specified in legal documents. Ethical regulations for government and other public servants do not mention the issue, although the problem existed.

In cases of sexual harassment, victims can inform social associations such as the Women's Union for their involvement. In serious cases victims can sue offenders according to Article 121 of the penal code, which deals with "humiliating other persons," and specifies punishments that include a warning, noncustodial reform for up to two years, or a prison term ranging from three months to two years. However, in reality sexual harassment lawsuits were unheard of, and most victims were unwilling to publicly denounce the offenders.

The Vietnam Women's Union and the National Committee for the Advancement of Women (NCFAW) continued to promote women's rights, including political, economic, and legal equality and protection from spousal abuse. The Women's Union also operated microcredit consumer finance programs and other programs to promote

Children

International organizations and government agencies reported that, despite the government's promotion of child protection and welfare, children continued to be at risk of economic exploitation.

While education is compulsory and free through the age of 14, authorities did not always enforce the requirement, especially in rural areas, where government and family budgets for education were strained and children's contribution as agricultural laborers was valued. The culture's strong emphasis on education led parents who could send children to school to do so rather than allow them to work. The 2005 Education Law provides universal access to education for children regardless of gender, religion, race, or ethnicity.

The public school system includes 12 grades. More than 90 percent of children attended primary grades, but the percentage attending lower and upper secondary school was much lower; secondary school enrollments were at less than 75 percent of eligible students for lower secondary and less than 50 percent for upper secondary. Enrollments were lower at all educational levels in remote mountainous areas.

Some street children in Ho Chi Minh City and Hanoi participated in night education courses. Vocational training programs implemented by NGOs enjoyed some success in Hanoi and other metropolitan areas, notably at the grassroots level, and filled the gap created by a lack of government implementation of existing legislation.

Religious groups operated some orphanages, despite the government's prohibition on such activities, and sent the children to public schools during the day.

The government provided medical care equally for both boys and girls, although medical services were constrained by limited budgets and geography in remote rural areas.

Anecdotal evidence suggested that child abuse occurred, but there was no information on the extent of such abuse.

Widespread poverty contributed to child prostitution, particularly of girls but also of boys, in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some minors, such as those from abusive homes, were forced into prostitution for economic reasons.

Children were trafficked domestically and to foreign destinations for sexual exploitation. Domestic trafficking also included incidents of child beggars and flower-selling rings, especially in Ho Chi Minh City and Hanoi. Other children were trafficked from Cambodia into Ho Chi Minh City. The government, in collaboration with the International Labor Organization (ILO) and the NGO Save the Children, held a high-profile child trafficking conference in Hanoi in August. The UN Children's Fund (UNICEF) and international NGOs also provided specific training to the government's border guard on methods to identify and combat trafficking in children.

According to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), there were nearly 23,000 street children, who were vulnerable to abuse and sometimes were abused or harassed by police. International NGOs documented numerous cases of Cambodian children trafficked to Ho Chi Minh City for work in begging and flower-selling rings. MOLISA managed two centers to provide support for women and children in needy situations. Youth unions also launched awareness campaigns.

Child labor remained a problem, but it was limited by a societal value for education and an ample supply of laborers of working age.

Trafficking in Persons

The penal code prohibits trafficking in women and children, but trafficking, in particular trafficking in women and children for sexual exploitation, remained a significant problem. Reliable statistics on the number of citizens who were victims of sex-related trafficking were not available; however, there was evidence that the number was growing. Documentation of known trafficking cases as well as the level of case adjudications and prosecutions increased, while the government became more open in identifying and prosecuting trafficking cases and public awareness rose. The transnational element to Vietnam-sourced trafficking also increased along with an increase in economic growth, globalization of the economy, and a growing gap between rich and poor.

The country was a significant source for trafficking in persons. Women were trafficked primarily to Cambodia, Malaysia, China, Taiwan, and South Korea for sexual exploitation. Women also were trafficked to Hong Kong, Macau, Thailand, the United Kingdom, Eastern Europe, and the United States. There were reports that some women going to Taiwan, Hong Kong, Macau, South Korea, and China for arranged marriages were victims of trafficking. Women and children also were trafficked within the country, usually from rural to urban areas. Men were trafficked regionally to work in construction, agriculture, and fishing.

There were reports that some women from Ho Chi Minh City and the Mekong Delta who left the country to marry men from Taiwan were forced into prostitution after their arrival in Taiwan. There was reported trafficking in women to the Macau Special Administrative Region of China with the assistance of organizations in China that were ostensibly marriage service bureaus, international labor organizations, and travel agencies. After their arrival women were forced into conditions similar to indentured servitude; some were forced into prostitution.

Children were trafficked for the purpose of prostitution, both within the country and to foreign destinations. An NGO advocate estimated that the average age of trafficked girls was between 15 and 17. Some reports indicated that the ages of girls trafficked to Cambodia typically were lower.

There were increasing reports that parents received payments in exchange for giving up their infant children for adoption. In addition, there was evidence that small children and infants were sometimes kidnapped and sold to traffickers in China and other countries. The media highlighted a number of cases of children trafficked from northern provinces to China. Because of China's strict one-child policy and growing need for agricultural and factory workers, children in border provinces remained at risk.

There were some documented cases of trafficking in adults for labor during the year. These included men trafficked to Malaysia and Thailand to support construction

industry projects and cases of fishermen working in Taiwan. Deceitful and fraudulent overseas labor contracts and recruiting remained a problem, although the government began to take steps to regulate export labor. MOLISA reported that some workers in state-owned labor companies who were recruited and sent abroad suffered conditions akin to involuntary servitude or forced labor. MOLISA reported incidents within the Malaysian construction industry as well as Thailand (see section 6.e.).

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. MPS and UNICEF research indicated that trafficking victims could come from any part of the country but were concentrated in certain northern and southern border provinces, especially the Mekong Delta and central province of Thanh Hoa. Some were sold by their families as domestic workers or for sexual exploitation. In some cases traffickers paid families several hundred dollars in exchange for allowing their daughters to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income; others were offered lucrative jobs by acquaintances. False advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, spouses, and employers.

Individual opportunists, informal networks, and some organized groups lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes. Family relatives were often involved in trafficking cases. The government stated that organized criminal groups were involved in recruitment, transit, and other trafficking-related activities. Vietnam-sourced trafficking operations were uncovered in Europe.

Throughout the year the government continued to increase efforts to prosecute traffickers. The law provides for prison sentences of two to 20 years for each offense for persons found guilty of trafficking women, and between three years and life in prison for each offense for persons found guilty of trafficking children. On July 26, the Ho Chi Minh City People's Court convicted six persons for trafficking 126 women to Malaysia under the cover of a matchmaker agency. The ringleader received a sentence of 12 years in prison; the other five received prison terms ranging from five to 10 years.

A national steering committee, led by the MPS, coordinated government efforts to identify and prosecute trafficking cases and assisted in prevention and training activities. The Criminal Police Department of the MPS, the Ministry of Justice, the Border Guard Command, and the Social Evils Department of MOLISA were the main government agencies involved in combating trafficking, with significant collaboration from the Women's Union. Police took an increasingly active role in investigating trafficking during the year, including training a dedicated antitrafficking force and building a conviction record. Government statistics showed an increase in case investigations and prosecutions.

The government implemented its 2004-10 National Program of Action on combating trafficking in women and children as well as a new Export Labor Law and directives on recruitment and contracting transparency. Decrees issued during the year also placed greater responsibility on provincial people's committees to combat trafficking, and the government committed to draft a new comprehensive antitrafficking law.

Mass organizations and NGOs continued to operate programs to reintegrate trafficked women and children into society. During the year programs continued that were designed to provide protection and reintegration assistance for trafficking victims through psychosocial support and vocational training, as well as to supplement regional and national prevention efforts by targeting at-risk populations. Official institutions, including MOLISA, the Women's Union, the Youth Union, and the Committee for Population, Family, and Children, continued active programs aimed at trafficking prevention, public awareness, and victims' protection. Government agencies worked closely with the International Organization for Migration, Asia Foundation, Pacific Links Foundation, and other international NGOs to provide temporary shelter, medical services, education, credit, counseling, and rehabilitation to returned trafficking victims. Security agencies with border control responsibility received training in investigative techniques to prevent trafficking. The UN Office on Drugs and Crime completed a four-year program with the MPS, supported by the international donor community, to strengthen legal and law enforcement institutions on antitrafficking, including conducting numerous training programs for provincial and local level law enforcement authorities.

The government worked with international NGOs to supplement and strengthen law enforcement measures and institutions and cooperated with other national governments to prevent trafficking. It also cooperated closely with other countries within the frameworks of Interpol, its Asian counterpart, and the Association of Southeast Asian Nations.

In 2006 the government signed an antitrafficking memorandum of understanding (MOU) with China, similar to the MOU signed with Cambodia in 2005, which resulted in increased cooperation on border security, identification, and prosecution of trafficking cases.

Persons with Disabilities

The law requires the state to protect the rights and encourage the employment of persons with disabilities. The provision of services to such persons, although limited, improved during the year.

During the year the Ministry of Transportation developed accessibility codes for public transportation facilities and trained transportation agency officials and students on use of the codes. The ministry piloted three bus routes accommodated for persons with disabilities in Ho Chi Minh City and another such route in Hanoi.

Educational opportunities for children with disabilities were improving. In the 1990s approximately 10 percent of children with disabilities were enrolled in school; by 2005 this rate increased to 22 percent, and during the year the rate reached 70 to 80 percent in some locations. The government worked with donor countries and international NGOs to train additional teachers for students with disabilities. During the year, for the first time, funds were allocated (\$90,000, or 1.5 billion VND) specifically for improving the quality of inclusive education for children with disabilities, as part of the National Action Plan on Disabilities.

The first representative of women with disabilities was appointed as a member of the management board of the Vietnam Women's Union.

Construction or major renovation of new government and large public buildings must include access for persons with disabilities. The Ministry of Construction established enforcement units in Hanoi, Ho Chi Minh City, Danang, Quang Nam, and Ninh Binh to ensure the implementation of the barrier-free codes.

The law provides for preferential treatment for firms that recruit persons with disabilities and for fines on firms that do not meet minimum quotas that reserve 2 to 3 percent of their workforce for workers with disabilities; however, the government enforced these provisions unevenly. Firms that have 51 percent of their employees with disabilities can qualify for special government-subsidized loans.

The government respects the political and civil rights of persons with disabilities. Under the election law, ballot boxes may be brought to the homes of individuals who wish to vote but are unable to go to a polling station.

The government supported the establishment of organizations aiding persons with disabilities. In two years it granted legal status for 13 organizations of persons with disabilities. Such persons are consulted in the development or review of national programs, such as poverty reduction programs, vocational laws, and various educational policies. The National Coordination Committees on Disabilities and its ministry members worked with domestic and foreign organizations to provide protection, support, physical access, education, and employment. The government operated a small network of rehabilitation centers to provide long-term, inpatient physical therapy. Several provinces, government agencies, and universities had specific programs for those with disabilities.

National/Racial/Ethnic Minorities

Although the government officially was opposed to discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities persisted. Despite the country's significant economic growth, ethnic minority communities benefited little from improved economic conditions.

Some members of ethnic minority groups continued to flee to Cambodia and Thailand, reportedly to seek greater economic opportunity or shortcuts to immigration to other countries. Government officials monitored certain highland minorities closely, particularly several ethnic groups in the Central Highlands, because of concern that the form of Protestant religion they were practicing encouraged ethnic minority separatism.

The government continued to impose security measures in the Central Highlands in response to concerns over possible ethnic minority separatist activity. There were some reports that ethnic minority individuals using cellular telephones to call the ethnic minority community abroad were a special target of police attention. There were a few reports that ethnic minorities seeking to cross into Cambodia were returned by Vietnamese police operating on both sides of the border, sometimes followed by police beatings and detentions.

The government continued to implement measures to address the causes of ethnic minority discontent and to initiate new measures as well. These included special programs to improve education and health facilities and to expand road access and electrification of rural communities and villages. The government allocated land to ethnic minorities in the Central Highlands through a special program, but there were complaints that implementation of these special programs was uneven.

The government maintained a program to conduct classes in some local ethnic minority languages up to the fifth grade. The government worked with local officials to develop a local language curriculum, but it appeared to implement this program more comprehensively in the Central Highlands than in the mountainous northern and northwestern provinces. The government operated special schools for ethnic minorities in many provinces, including subsidized boarding schools at the high-school and middle-school levels, and offered special admission and preparatory programs as well as scholarships and preferential admissions at the university level. There were also a handful of government subsidized technical and vocational schools for ethnic minorities. Nonetheless, there were credible cases of discrimination against Christian ethnic minorities, although the law provides for universal education for children, regardless of religion or ethnic group.

The government broadcast radio and television programs in ethnic minority languages in some areas. The government also instructed ethnic Kinh officials to learn the language of the locality in which they worked. Provincial governments continued initiatives designed to increase employment, reduce the income gap between ethnic minorities and ethnic Kinh, and make officials sensitive and receptive to ethnic minority culture and traditions.

The government granted preferential treatment to domestic and foreign companies that invested in highland areas, which are heavily populated with ethnic minorities. The government also maintained infrastructure development programs that targeted poor, largely ethnic minority areas and established agricultural extension programs for remote rural areas.

Other Societal Abuses and Discrimination

There was no evidence of official discrimination against persons with HIV/AIDS, but societal discrimination against such persons existed. There were credible reports that persons with HIV/AIDS lost jobs or suffered from discrimination in the workplace or in finding housing, although such reports decreased. In a few cases, children of persons with HIV/AIDS were barred from schools, despite its being against the law. With the assistance of foreign donors, the national government and provincial authorities took steps to treat, assist, and accommodate persons with HIV/AIDS; decrease societal stigma and discrimination; and increase dignity; however, overall consistency was lacking. Religious charities were sometimes permitted to operate in this area.

A homosexual community existed but was largely underground. There was low public awareness of the issue and little evidence of discrimination based on sexual orientation.

Section 6 Worker Rights

The Right of Association

Workers are not free to join or form unions of their choosing. The CPV controls the single trade union, the Vietnam General Confederation of Labor (VGCL), an umbrella organization that approves and manages a range of subsidiary labor unions organized according to location and industry. According to VGCL statistics, in June 2006 total membership was more than 5.4 million members, or an estimated 48.8 percent of the approximately 11.1 million wage earners. Of these, 36.5 percent worked in the public sector, 33.1 percent in state-owned enterprises, and 30.4 percent in the private sector. This included an increase of 555,000 members from the nonstate and foreign invested sectors. The VGCL claimed that its membership represented 95 percent of public sector workers and 90 percent of workers in state-owned enterprises. Approximately 1.7 million union members worked in the private sector, including in enterprises with foreign investment (more than 700,000 persons). The vast majority of the workforce was not unionized, as almost 34 million of the 45.3 million total laborers lived in rural areas and engaged in activities such as small-scale farming or worked in small companies and the informal private sector.

Union leaders influenced key decisions, such as amending labor legislation, developing social safety nets, and setting health, safety, and minimum wage standards. However, the VGCL asserted that authorities did not always prosecute violations of the law. MOLISA acknowledged shortcomings in its labor inspection system, emphasizing that the country had an insufficient number of labor inspectors. The VGCL stated, and MOLISA acknowledged, that low fines on firms for labor violations failed to act as an effective deterrent.

The VGCL had relations with 140 labor organizations in 91 countries, 20 nongovernmental and UN organizations, and 20 international and regional occupational trade unions. According to the trade union law, VGCL's industrial union subsidiaries are also allowed to join international trade unions in conformity with their activity objectives.

The government continued to arrest or harass labor activists. In March Tran Thi Thuy Trang was arrested in Ho Chi Minh City for her involvement in organizing workers and in defending workers in labor disputes and protecting their rights outside CPV-controlled structures. In May Tran Quoc Hien was sentenced to seven years' imprisonment (two suspended) and two years' house arrest for "disturbing security and order" in his role as spokesman for the outlawed United Workers-Farmers Organization (UWFO).

In December three UWFO founding members--Doan Huy Chuong, Tran Thi Le Hang (or Hong), and Doan Van Dien--arrested in November 2006 for their role in establishing an organization to promote workers' and farmers' rights were tried and sentenced to prison terms of four years and six months, three years, and one year and six months, respectively, for "abusing democracy and freedom rights to infringe the interests of the state and the legitimate rights and interests of organizations and citizens." The status of other UWFO members also reportedly arrested in November 2006, including Nguyen Tan Hoanh, Nguyen Thi Tuyet, Le Van Sy, Nguyen Toan, and Le Ba Trient, was unknown at year's end. (Some sources reported that Nguyen Tan Hoanh and Doan Huy Chuong were the same person.)

Nguyen Khac Toan, former journalist and the founder of the International Labor Union of Vietnam (ILUV), remained under strict surveillance after his release from prison in early 2006. The government continued to outlaw the ILUV, which Toan created in October 2006 to protect workers' rights.

The labor code requires enterprises to facilitate employee efforts to join the union and prohibits antiunion discrimination on the part of employers against employees who seek it, but enforcement was uneven.

The Right to Organize and Bargain Collectively

By law the provincial or metropolitan branch of the VGCL is responsible for organizing a union within six months of the establishment of any new enterprise, and management is required to cooperate with the union. In actuality only 85 percent of state-owned enterprises, 60 percent of foreign-invested enterprises, and 30 percent of private enterprises were unionized.

The law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers.

While the law does not allow for independent unions, it states that the negotiation of disputes can be led and organized by "relevant entities," which may be composed of worker representatives, when the enterprise in question does not have a union.

Workers must take individual claims through a process involving a conciliation council, or a district-level labor conciliator where no union is present, and if no resolution is obtained, a provincial arbitration council before a legal strike can be held. Collective labor disputes over rights must be routed through a conciliation council and, if the council cannot resolve the issue, to the chairman of the district-level people's committee. Amendments made to the labor law in July divide such disputes into those over rights (compliance with the law) and those over interests (demands beyond what the law provides), setting out different procedures for both. The law sets out an extensive process of mediation and arbitration that must be followed before a strike can legally take place.

Strikes are illegal if they are not related to a collective labor dispute or if they concern matters that are outside of labor relations. Unions (or workers' representatives where no union is present) have the right either to appeal decisions of provincial labor arbitration councils to provincial people's courts or to go on strike. Individual workers may take cases directly to the people's court system, but in most cases they may do so only after conciliation has been attempted and failed. The July amendments also stipulate that workers on strike will not be paid for the time they are not at work.

Strikes typically did not follow the authorized conciliation and arbitration process and thus were technically illegal, but the government tolerated them and took no action against the strikers. The law prohibits retribution against strikers, and there were no reports of retribution. In some cases the government disciplined employers for the illegal practices that led to strikes.

Strikes usually occurred due to demands for more pay and better working conditions. Approximately 75 percent of strikes during the year took place in the textile, shoe-making, and processing industries. More than 90 percent of strikes occurred in Ho Chi Minh City and southern Dong Nai and Binh Duong provinces. In March more than 7,000 workers at a Mabuchi Motor Company plant in Dong Nai went on strike for more pay and better working conditions. In April nearly 2,000 workers in a shoe plant owned by a Taiwanese firm in Haiphong also walked off the job. In May 4,000 workers seeking higher wages at a locally owned shoe factory in the same city walked off the job.

The law prohibits strikes in 54 occupational sectors and businesses that serve the public or are considered by the government to be important to the national economy and defense. A subsequent decree defines these enterprises to be those involved in electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the prime minister the right to suspend a strike considered detrimental to the national economy or public safety.

There are no special laws or exemptions from regular labor laws in export processing zones and industrial zones. There was anecdotal evidence that the government enforced the laws more actively in the zones than outside them. However, there were credible reports that employers in the zones tended to ignore workers' rights and to use short-term contracts to avoid the legal requirement to set up a union.

Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred.

Prisoners routinely were required to work for little or no pay. They produced food and other goods used directly in prisons or sold on local markets, reportedly to purchase items for their personal use.

Prohibition of Child Labor and Minimum Age for Employment

Child labor remained a problem, particularly in the rural areas, where 72 percent of the population resides. The law prohibits most child labor but allows exceptions for certain types of work. The law sets the minimum age for employment at 18, but enterprises may hire children between 15 and 18 if the firm obtains permission from parents and MOLISA. In June 2006 MOLISA reported that approximately 30 percent of children between the ages of six and 17 participated in economic activities. Observers noted that the estimate may have understated the number of children who participated in such activities, since many more children worked in the informal sector, usually on family farms or in family businesses not within the scope of the law.

By law an employer must ensure that workers under 18 do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the labor law. The law permits children to register at trade training centers, a form of vocational training, from the age of 13. Children may work a maximum of seven hours per day and 42 hours per week and must receive special health care.

In rural areas children worked primarily on family farms and in other agricultural activities. In some cases they began work as young as age six and were expected to do the work of adults by the time they were 15. In urban areas children worked in family-owned small businesses or on the street shining shoes or selling articles such as lottery tickets and newspapers. Migration from rural to urban settings exacerbated the child labor problem, because unauthorized migrants were unable to register their households in urban areas. This meant that their children could not attend public schools and families had less access to credit. Officials stated that juveniles in education and nourishment centers, which functioned much as reform schools or juvenile detention centers, were commonly assigned work for "educational purposes."

Government officials may fine and, in cases of criminal code violations, prosecute employers who violate child labor laws. While the government committed insufficient resources to enforce effectively laws providing for children's safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitative situations, and fined the employers.

International donor assistance targeted the problem of child labor. The government also continued programs to eliminate persistent child labor, with a particular focus on needy families and orphans.

Acceptable Conditions of Work

The law requires the government to set a minimum wage, which is adjusted for inflation and other economic changes. In November the government raised minimum wages across all categories and locations, in part to account for rising inflation. Effective January 1, 2008, the official monthly minimum wage for unskilled laborers at foreign-invested joint ventures and foreign and international organizations was set to be \$62 (one million VND) in the urban districts of Hanoi and Ho Chi Minh City; \$56 (900,000 VND) in the suburban districts of Hanoi, Ho Chi Minh City, and several other industrial districts and towns; and \$50 (800,000 VND) elsewhere. The government may temporarily exempt certain joint ventures from paying the minimum wage during the first months of an enterprise's operations or if the enterprise is located in a very remote area, but the minimum monthly wage in these cases can be no lower than \$50 (800,000 VND). The official monthly minimum wage for unskilled labor in the state sector was \$34 (540,000 VND) in the provinces and \$39 (620,000 VND) in the urban districts of Hanoi and Ho Chi Minh City, an increase of 38 percent. Nevertheless, this amount remained inadequate to provide a worker and family a decent standard of living. State-owned enterprises consistently paid more than the state-sector minimum wage. The number of workers who received government-subsidized housing decreased. Many workers received bonuses and supplemented their incomes by engaging in entrepreneurial activities. Households frequently included more than one wage earner.

The government set the workweek for government employees and employees of companies in the state sector at 40 hours, and it encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours but did not make compliance mandatory.

The law sets normal working hours at eight hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at one and one-half times the regular wage, two times the regular wage for weekdays off, and three times the regular wage for holidays and paid leave days. The law limits compulsory overtime to four hours per week and 200 hours per year but provides for an exception in special cases, where this maximum can be up to 300 overtime hours worked annually, subject to approval by the government after consulting with VGCL and employer representatives. The law also prescribes annual leave with full pay for various types of work. It was unclear how strictly the government enforced these provisions.

According to the law, a female employee who is engaged to be married, pregnant, on maternity leave, or raising a child under one year of age cannot be dismissed unless the enterprise closes. Female employees who are at least seven months' pregnant or are caring for a child under one year of age cannot be compelled to work overtime, at night, or in locations distant from their homes.

The law requires the government to promulgate rules and regulations that ensure worker safety. MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the regulations, but enforcement was inadequate because of low funding and a shortage of trained enforcement personnel. On-the-job injuries due to poor health and safety conditions in the workplace were a problem. The greatest number of occupational injuries was caused by machinery such as rolling mills and presses.

The law provides that workers may remove themselves from hazardous conditions without risking loss of employment; however, it was unclear how well this stipulation was enforced. MOLISA stated that there were no worker complaints of employers failing to abide by the law.

Amid the export labor industry's rapid growth, media articles and international human rights groups cautioned the government against building up the industry without also providing robust worker protections. They noted the increasing number of workers who were charged as much as \$7,000 (112 million VND) for the opportunity to work abroad, fees that most workers typically could recover only after one or two years abroad. Reports of bonded labor, related sex trafficking, and the lack of resources available to workers in distress subsequently emerged. The government's January Decision No. 05/2007, which regulates labor brokerage fees, as well as the November 2006 Export Labor Law, which went into effect on July 1, were designed to alleviate this situation and provide recourse to victims of labor-based trafficking.

 [BACK TO TOP](#)

Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.